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OR

SELECTIONS FROM THE SPEECHES

OF

EMINENT AMERICANS.

COMPILED BY

A MEMBER OF THE PHILADELPHIA BAR.

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PREFACE.

No apology can be required for presenting to the American public a volume of Speeches selected from the best efforts of their own statesmen. Public discussion is elsewhere the province of a few; in our country, it is the duty of almost all. It is not only desirable, therefore, but absolutely necessary, that all should have at hand those models, which the peculiar character of our institutions, the tone of our national thought, and the exigencies of our history, have combined to produce. Foreign orators may serve as examples of style, but the inhabitants of a republic must seek at home for the intellectual results of the government they have chosen, and for the illustration of those principles by which it is to be sustained. If they cannot always find the same refinement of language, or the same elaborateness of thought, which in older countries is the result of hereditary wealth and more scholastic education, they will discover at least a vigorous and masculine diction, patriotic sentiments, and unflinching independence, the appropriate attendants upon themes for the most part grave, and frequently severe.

The editor does not affect to have used any extraordinary research in the compilation now presented to the reader. The character of the subjects discussed has had great influence with him in the selections he has made. For many years past, the newspaper press has carried the opinions expressed in congress to every

man's door. Those distinguished by uncommon force, dignity, and ability, have been received with eagerness and read with attention. Public sentiment has supplied the *imprimatur*, therefore, under which the present volume appears. It was, at one time, the hope of the publishers to present a collection of revolutionary speeches; but the attempt was given up in despair. Those Sibylline leaves have long been scattered to the winds. The fervid addresses which roused our forefathers to action, did their brief business successfully; but the soldiers they made had no time to be chroniclers. The old congress, it is believed, employed no reporters; the fame of their eloquence is therefore but traditionary:—

> "Vixere fortes ante Agamemnona
> Multi: sed omnes illachrymabiles
> Urgentur, ignotique, longa
> Nocte, carent quia vate sacro."

It is to be presumed, however, that many of their sentiments, though the language in which they were clothed is irretrievably lost, may be sought successfully in the following pages. There are names upon them that have never yet disgraced their revolutionary predecessors.

PHILADELPHIA, 1836.

SPEECH OF JAMES WILSON,

JANUARY, 1775,

IN THE CONVENTION FOR THE PROVINCE OF PENNSYLVANIA,

IN VINDICATION OF THE COLONIES.

"A most daring spirit of resistance and disobedience still prevails in Massachusetts, and has broken forth in fresh violences of a criminal nature. The most proper and effectual methods have been taken to prevent these mischiefs; and the parliament may depend upon a firm resolution to withstand every attempt to weaken or impair the supreme authority of parliament over all the dominions of the crown."—*Speech of the King of Great Britain to Parliament, Nov.* 1774.

Mr. Chairman,

Whence, sir, proceeds all the invidious and ill-grounded clamor against the colonists of America? Why are they stigmatized in Britain as licentious and ungovernable? Why is their virtuous opposition to the illegal attempts of their governors, represented under the falsest colors, and placed in the most ungracious point of view? This opposition, when exhibited in its true light, and when viewed, with unjaundiced eyes, from a proper situation, and at a proper distance, stands confessed the lovely offspring of freedom. It breathes the spirit of its parent. Of this ethereal spirit, the whole conduct, and particularly the late conduct, of the colonists has shown them eminently possessed. It has animated and regulated every part of their proceedings. It has been recognized to be genuine, by all those symptoms and effects by which it has been distinguished in other ages and other countries. It has been calm and regular: it has not acted without occasion: it has not acted disproportionably to the occasion. As the attempts, open or secret, to undermine or to destroy it, have been repeated or enforced, in a just degree, its vigilance and its vigor have been exerted to defeat or to disappoint them. As its exertions have been sufficient for those purposes hitherto, let us hence draw a joyful prognostic, that they will continue sufficient for those purposes hereafter. It is not yet exhausted: it will still operate irresistibly whenever a necessary occasion shall call forth its strength.

Permit me, sir, by appealing, in a few instances, to the spirit

and conduct of the colonists, to evince that what I have said of them is just. Did they disclose any uneasiness at the proceedings and claims of the British parliament, before those claims and proceedings afforded a reasonable cause for it? Did they even disclose any uneasiness, when a reasonable cause for it was first given? Our rights were invaded by their regulations of our internal policy. We submitted to them: we were unwilling to oppose them. The spirit of liberty was slow to act. When those invasions were renewed; when the efficacy and malignancy of them were attempted to be redoubled by the stamp act; when chains were formed for us; and preparations were made for riveting them on our limbs, what measures did we pursue? The spirit of liberty found it necessary now to act; but she acted with the calmness and decent dignity suited to her character. Were we rash or seditious? Did we discover want of loyalty to our sovereign? Did we betray want of affection to our brethren in Britain? Let our dutiful and reverential petitions to the throne; let our respectful, though firm, remonstrances to the parliament; let our warm and affectionate addresses to our brethren and (we will still call them) our friends in Great Britain,—let all those, transmitted from every part of the continent, testify the truth. By their testimony let our conduct be tried.

As our proceedings, during the existence and operation of the stamp act, prove fully and incontestably the painful sensations that tortured our breasts from the prospect of disunion with Britain; the peals of joy, which burst forth universally, upon the repeal of that odious statute, loudly proclaim the heartfelt delight produced in us by a reconciliation with her. Unsuspicious, because undesigning, we buried our complaints, and the causes of them, in oblivion, and returned, with eagerness, to our former unreserved confidence. Our connection with our parent country, and the reciprocal blessings resulting from it to her and to us, were the favorite and pleasing topics of our public discourses and our private conversations. Lulled into delightful security, we dreamed of nothing but increasing fondness and friendship, cemented and strengthened by a kind and perpetual communication of good offices. Soon, however, too soon, were we awakened from the soothing dreams! Our enemies renewed their designs against us, not with less malice, but with more art. Under the plausible pretence of regulating our trade, and, at the same time, of making provision for the administration of justice, and the support of government, in some of the colonies, they pursued their scheme of depriving us of our property without our consent. As the attempts to distress us, and to degrade us to a rank inferior to that of freemen, appeared now to be reduced into a regular system, it became proper, on our part, to form a regular system for counteracting them. We ceased to

import goods from Great Britain. Was this measure dictated by selfishness or by licentiousness? Did it not injure ourselves, while it injured the British merchants and manufacturers? Was it inconsistent with the peaceful demeanor of subjects to abstain from making purchases, when our freedom and our safety rendered it necessary for us to abstain from them? A regard for our freedom and our safety was our only motive; for no sooner had the parliament, by repealing part of the revenue laws, inspired us with the flattering hopes, that they had departed from their intentions of oppressing and of taxing us, than we forsook our plan for defeating those intentions, and began to import as formerly. Far from being peevish or captious, we took no public notice even of their declaratory law of dominion over us: our candor led us to consider it as a decent expedient of retreating from the actual exercise of that dominion.

But, alas! the root of bitterness still remained. The duty on tea was reserved to furnish occasion to the ministry for a new effort to enslave and to ruin us; and the East India Company were chosen, and consented to be the detested instruments of ministerial despotism and cruelty. A cargo of their tea arrived at Boston. By a low artifice of the governor, and by the wicked activity of the tools of government, it was rendered impossible to store it up, or to send it back, as was done at other places. A number of persons, unknown, destroyed it.

Let us here make a concession to our enemies: let us suppose, that the transaction deserves all the dark and hideous colors in which they have painted it: let us even suppose (for our cause admits of an excess of candor) that all their exaggerated accounts of it were confined strictly to the truth: what will follow? Will it follow, that every British colony in America, or even the colony of Massachusetts Bay, or even the town of Boston, in that colony, merits the imputation of being factious and seditious? Let the frequent mobs and riots, that have happened in Great Britain upon much more trivial occasions, shame our calumniators into silence. Will it follow, because the rules of order and regular government were, in that instance, violated by the offenders, that, for this reason, the principles of the constitution, and the maxims of justice, must be violated by their punishment? Will it follow, because those who were guilty could not be known, that, therefore, those who were known not to be guilty must suffer? Will it follow, that even the guilty should be condemned without being heard—that they should be condemned upon partial testimony, upon the representations of their avowed and imbittered enemies? Why were they not tried in courts of justice known to their constitution, and by juries of their neighborhood? Their courts and their juries were not, in the case of captain Preston, transported beyond

the bounds of justice by their resentment: why, then, should it be presumed, that, in the case of those offenders, they would be prevented from doing justice by their affection? But the colonists, it seems, must be stripped of their judicial, as well as of their legislative powers. They must be bound by a legislature, they must be tried by a jurisdiction, not their own. Their constitutions must be changed: their liberties must be abridged: and those who shall be most infamously active in changing their constitutions and abridging their liberties, must, by an express provision, be exempted from punishment.

I do not exaggerate the matter, sir, when I extend these observations to all the colonists. The parliament meant to extend the effects of their proceedings to all the colonists. The plan, on which their proceedings are formed, extends to them all. From an incident of no very uncommon or atrocious nature, which happened in one colony, in one town in that colony, and in which only a few of the inhabitants of that town took a part, an occasion has been taken by those, who probably intended it, and who certainly prepared the way for it, to impose upon that colony, and to lay a foundation and a precedent for imposing upon all the rest, a system of statutes, arbitrary, unconstitutional, oppressive, in every view, and in every degree subversive of the rights, and inconsistent with even the name, of freemen.

Were the colonists so blind as not to discern the consequences of these measures? Were they so supinely inactive, as to take no steps for guarding against them? They were not. They ought not to have been so. We saw a breach made in those barriers, which our ancestors, British and American, with so much care, with so much danger, with so much treasure, and with so much blood, had erected, cemented and established for the security of their liberties, and—with filial piety let us mention it—of ours. We saw the attack actually begun upon one part: ought we to have folded our hands in indolence, to have lulled our eyes in slumbers, till the attack was carried on, so as to become irresistible, in every part? Sir, I presume to think not. We were roused; we were alarmed, as we had reason to be. But still our measures have been such as the spirit of liberty and of loyalty directed; not such as a spirit of sedition or of disaffection would pursue. Our counsels have been conducted without rashness and faction: our resolutions have been taken without phrensy or fury.

That the sentiments of every individual concerning that important object, his liberty, might be known and regarded, meetings have been held, and deliberations carried on, in every particular district. That the sentiments of all those individuals might gradually and regularly be collected into a single point, and the conduct of each inspired and directed by the result of the whole united,

county committees, provincial conventions, a continental congress, have been appointed, have met and resolved. By this means, a chain—more inestimable, and, while the necessity for it continues, we hope, more indissoluble than one of gold—a chain of freedom has been formed, of which every individual in these colonies, who is willing to preserve the greatest of human blessings, his liberty, has the pleasure of beholding himself a link.

Are these measures, sir, the brats of disloyalty, of disaffection? There are miscreants among us, wasps that suck poison from the most salubrious flowers, who tell us they are. They tell us that all those assemblies are unlawful, and unauthorized by our constitutions; and that all their deliberations and resolutions are so many transgressions of the duty of subjects. The utmost malice brooding over the utmost baseness, and nothing but such a hated commixture, must have hatched this calumny. Do not those men know—would they have others not to know—that it was impossible for the inhabitants of the same province, and for the legislatures of the different provinces, to communicate their sentiments to one another in the modes appointed for such purposes, by their different constitutions? Do not they know—would they have others not to know—that all this was rendered impossible by those very persons, who now, or whose minions now, urge this objection against us? Do not they know—would they have others not to know—that the different assemblies, who could be dissolved by the governors, were, in consequence of ministerial mandates, dissolved by them, whenever they attempted to turn their attention to the greatest objects, which, as guardians of the liberty of their constituents, could be presented to their view? The arch enemy of the human race torments them only for those actions to which he has tempted, but to which he has not necessarily obliged them. Those men refine even upon infernal malice: they accuse, they threaten us, (superlative impudence!) for taking those very steps, which we were laid under the disagreeable necessity of taking by themselves, or by those in whose hateful service they are enlisted. But let them know, that our counsels, our deliberations, our resolutions, if not authorized by the forms, because that was rendered impossible by our enemies, are nevertheless authorized by that which weighs much more in the scale of reason—by the spirit of our constitutions. Was the convention of the barons at Runnymede, where the tyranny of John was checked, and *magna charta* was signed, authorized by the forms of the constitution? Was the convention parliament, that recalled Charles the Second, and restored the monarchy, authorized by the forms of the constitution? Was the convention of lords and commons, that placed king William on the throne, and secured the monarchy and liberty likewise, authorized by the forms of the constitution? I cannot conceal my

emotions of pleasure, when I observe, that the objections of our adversaries cannot be urged against us, but in common with those venerable assemblies, whose proceedings formed such an accession to British liberty and British renown.

The resolutions entered into, and the recommendations given, by the continental congress, have stamped, in the plainest characters, the genuine and enlightened spirit of liberty, upon the conduct observed, and the measures pursued, in consequence of them. As the invasions of our rights have become more and more formidable, our opposition to them has increased in firmness and vigor, in a just, and in no more than a just, proportion. We will not import goods from Great Britain or Ireland: in a little time we will suspend our exportations to them: and, if the same illiberal and destructive system of policy be still carried on against us, in a little time more we will not consume their manufactures. In that colony, where the attacks have been most open, immediate and direct, some further steps have been taken, and those steps have met with the deserved approbation of the other provinces.

Is this scheme of conduct allied to rebellion? Can any symptoms of disloyalty to his majesty, of disinclination to his illustrious family, or of disregard to his authority, be traced in it? Those who would blend, and whose crimes have made it necessary for them to blend, the tyrannic acts of administration with the lawful measures of government, and to veil every flagitious procedure of the ministry under the venerable mantle of majesty, pretend to discover, and employ their emissaries to publish the pretended discovery of such symptoms. We are not, however, to be imposed upon by such shallow artifices. We know, that we have not violated the laws or the constitution; and that, therefore, we are safe as long as the laws retain their force and the constitution its vigor; and that, whatever our demeanor be, we cannot be safe much longer. But another object demands our attention.

We behold, sir, with the deepest anguish we behold, that our opposition has not been as effectual as it has been constitutional. The hearts of our oppressors have not relented: our complaints have not been heard: our grievances have not been redressed: our rights are still invaded; and have we no cause to dread, that the invasions of them will be enforced, in a manner against which all reason and argument, and all opposition, of every peaceful kind, will be vain? Our opposition has hitherto increased with our oppression: shall it, in the most desperate of all contingencies, observe the same proportion?

Let us pause, sir, before we give an answer to this question. The fate of us; the fate of millions now alive; the fate of millions yet unborn, depends upon the answer. Let it be the result of calmness and of intrepidity: let it be dictated by the principles of

loyalty, and the principles of liberty. Let it be such, as never, in the worst events, to give us reason to reproach ourselves, or others reason to reproach us for having done too much or too little.

Perhaps the following resolution may be found not altogether unbefitting our present situation. With the greatest deference I submit it to the mature consideration of this assembly.

"That the act of the British parliament for altering the charter and constitution of the colony of Massachusetts Bay, and those 'for the impartial administration of justice' in that colony, for shutting the port of Boston, and for quartering soldiers on the inhabitants of the colonies, are unconstitutional and void; and can confer no authority upon those who act under color of them. That the crown cannot, by its prerogative, alter the charter or constitution of that colony: that all attempts to alter the said charter or constitution, unless by the authority of the legislature of that colony, are manifest violations of the rights of that colony, and illegal: that all force employed to carry such unjust and illegal attempts into execution, is force without authority: that it is the right of British subjects to resist such force: that this right is founded both upon the letter and the spirit of the British constitution."

To prove, at this time, that those acts are unconstitutional and void, is, I apprehend, altogether unnecessary. The doctrine has been proved fully, on other occasions, and has received the concurring assent of British America. It rests upon plain and indubitable truths. We do not send members to the British parliament: we have parliaments (it is immaterial what name they go by) of our own.

That a void act can confer no authority upon those who proceed under color of it, is a self-evident proposition.

Before I proceed to the other clauses, I think it useful to recur to some of the fundamental maxims of the British constitution; upon which, as upon a rock, our wise ancestors erected that stable fabric, against which the gates of hell have not hitherto prevailed. Those maxims I shall apply fairly, and, I flatter myself, satisfactorily to evince every particular contained in the resolution.

The government of Britain, sir, was never an arbitrary government; our ancestors were never inconsiderate enough to trust those rights, which God and nature had given them, unreservedly into the hands of their princes. However difficult it may be, in other states, to prove an original contract subsisting in any other manner, and on any other conditions, than are naturally and necessarily implied in the very idea of the first institution of a state, it is the easiest thing imaginable, since the revolution of 1688, to prove it in our constitution, and to ascertain some of the material articles of which it consists. It has been often appealed to: it has been

often broken, at least on one part: it has been often renewed: it has been often confirmed: it still subsists in its full force: "it binds the king as much as the meanest subject." The measures of his power, and the limits, beyond which he cannot extend it, are circumscribed and regulated by the same authority, and with the same precision, as the measures of the subject's obedience; and the limits, beyond which he is under no obligation to practise it, are fixed and ascertained. Liberty is, by the constitution, of equal sanction, of equal antiquity, and of equal authority, with prerogative. The rules of the king and those of the subject are plainly reciprocal: they can be violated on neither side, unless they be performed on the other. The law is the common standard, by which the excesses of prerogative, as well as the excesses of liberty, are to be regulated and reformed.

In this great compact between the king and his people, one essential article to be performed on his part is, that, in those cases where provision is expressly made and limitations set by the laws, his government shall be conducted according to those provisions, and restrained according to those limitations; that, in those cases which are not expressly provided for by the laws, it shall be conducted by the best rules of discretion, agreeably to the general spirit of the laws, and subserviently to their ultimate end—the interest and happiness of his subjects: that, in no case, it shall be conducted contrary to the express, or to the implied principles of the constitution.

These general maxims, which we may justly consider as fundamentals of our government, will, by a plain and obvious application of them to the parts of the resolution remaining to be proved, demonstrate them to be strictly agreeable to the laws and constitution.

We can be at no loss in resolving, that the king cannot, by his prerogative, alter the charter or constitution of the colony of Massachusetts Bay. Upon what principle could such an exertion of prerogative be justified? On the acts of parliament? They are already proved to be void. On the discretionary power which the king has of acting where the laws are silent? That power must be subservient to the interest and happiness of those concerning whom it operates. But I go further. Instead of being supported by law, or the principles of prerogative, such an alteration is totally and absolutely repugnant to both. It is contrary to express law. The charter and constitution, we speak of, are confirmed by the only legislative power capable of confirming them; and no other power, but that which can ratify, can destroy. If it is contrary to express law, the consequence is necessary, that it is contrary to the principles of prerogative; for prerogative can operate only when the law is silent.

In no view can this alteration be justified, or so much as excused. It cannot be justified or excused by the acts of parliament; because the authority of parliament does not extend to it: it cannot be justified or excused by the operation of prerogative; because this is none of the cases in which prerogative can operate: it cannot be justified or excused by the legislative authority of the colony; because that authority never has been, and, I presume, never will be given for any such purpose.

If I have proceeded hitherto, as I am persuaded I have, upon safe and sure ground, I can, with great confidence, advance a step further, and say, that all attempts to alter the charter or constitution of that colony, unless by the authority of its own legislature, are violations of its rights, and illegal.

If those attempts are illegal, must not all force, employed to carry them into execution, be force employed against law, and without authority? The conclusion is unavoidable.

Have not British subjects, then, a right to resist such force—force acting without authority—force employed contrary to law—force employed to destroy the very existence of law and of liberty? They have, sir, and this right is secured to them both by the letter and the spirit of the British constitution, by which the measures and the conditions of their obedience are appointed. The British liberties, sir, and the means and the right of defending them, are not the grants of princes; and of what our princes never granted they surely can never deprive us.

I beg leave, here, to mention and to obviate some plausible but ill-founded objections, that have been, and will be, held forth by our adversaries, against the principles of the resolution now before us. It will be observed, that those, employed for bringing about the proposed alteration in the charter and constitution of the colony of Massachusetts Bay, act by virtue of a commission for that purpose from his majesty; that all resistance of forces, commissioned by his majesty, is resistance of his majesty's authority and government, contrary to the duty of allegiance, and treasonable. These objections will be displayed in their most specious colors; every artifice of chicanery and sophistry will be put in practice to establish them; law authorities, perhaps, will be quoted and tortured to prove them. Those principles of our constitution which were designed to preserve and to secure the liberty of the people, and, for the sake of that, the tranquillity of government, will be perverted on this, as they have been on many other occasions, from their true intention, and will be made use of for the contrary purpose of endangering the latter, and destroying the former. The names of the most exalted virtues, on one hand, and of the most atrocious crimes on the other, will be employed in direct contradiction to

the nature of those virtues, and of those crimes: and, in this manner, those who cannot look beyond names, will be deceived; and those whose aim it is to deceive by names, will have an opportunity of accomplishing it. But, sir, this disguise will not impose upon us. We will look to things as well as to names: and, by doing so, we shall be fully satisfied, that all those objections rest upon mere verbal sophistry, and have not even the remotest alliance with the principles of reason or of law.

In the first place, then, I say, that the persons who allege, that those employed to alter the charter and constitution of Massachusetts Bay, act by virtue of a commission from his majesty for that purpose, speak improperly, and contrary to the truth of the case. I say, they act by virtue of no such commission: I say, it is impossible they can act by virtue of such a commission. What is called a commission either contains particular directions for the purpose mentioned, or it contains no such particular directions. In either case, can those, who act for that purpose, act by virtue of a commission? In one case, what is called a commission is void: it has no legal existence; it can communicate no authority. In the other case, it extends not to the purpose mentioned. The latter point is the plain to be insisted on: I prove the former.

"*Id rex potest*," says the law, "*quod de jure potest.*" The king's power is a power according to law. His commands, if the authority of lord chief justice Hale may be depended upon, are under the directive power of the law; and consequently invalid, if unlawful. "Commissions," says my lord Coke, "are legal; and are like the king's writs; and none are lawful, but such as are allowed by the common law, or warranted by some act of parliament."

Let us examine any commission expressly directing those to whom it is given to use military force for carrying into execution the alterations proposed to be made in the charter and constitution of Massachusetts Bay, by the foregoing maxims and authorities; and what we have said concerning it will appear obvious and conclusive. It is not warranted by any act of parliament, because, as has been mentioned to this, and has been proved on other occasions, any such act is void. It is not warranted, and I believe it will not be pretended that it is warranted, by the common law. It is not warranted by the royal prerogative, because, as has already been fully shown, it is diametrically opposite to the principles and the ends of prerogative. Upon what foundation, then, can it lean and be supported? Upon none. Like an enchanted castle, it may terrify those, whose eyes are affected by the magic influence of the sorceress, despotism and slavery; but so soon as the charm is dissolved, and the genuine rays of liberty and of the constitution

dart in upon us, the formidable appearance vanishes, and we discover that it was the baseless fabric of a vision, that never had any real existence.

I have dwelt the longer upon this part of the objections, urged against us by our adversaries, because this part is the foundation of all the others. We have now removed it; and they must fall of course. For if the force, acting for the purposes we have mentioned, does not act, and cannot act, by virtue of any commission from his majesty, the consequence is undeniable, that it acts without his majesty's authority; that the resistance of it is no resistance of his majesty's authority, nor incompatible with the duties of allegiance.

And now, sir, let me appeal to the impartial tribunal of reason and truth; let me appeal to every unprejudiced and judicious observer of the laws of Britain, and of the constitution of the British government; let me appeal, I say, whether the principles on which I argue, or the principles on which alone my arguments can be opposed, are those which ought to be adhered to and acted upon; which of them are most consonant to our laws and liberties; which of them have the strongest, and are likely to have the most effectual tendency to establish and secure the royal power and dignity.

Are we deficient in loyalty to his majesty? Let our conduct convict, for it will fully convict, the insinuation that we are, of falsehood. Our loyalty has always appeared in the true form of loyalty; in obeying our sovereign according to law: let those, who would require it in any other form, know, that we call the persons who execute his commands, when contrary to law, disloyal and traitors. Are we enemies to the power of the crown? No, sir, we are its best friends: this friendship prompts us to wish, that the power of the crown may be firmly established on the most solid basis: but we know, that the constitution alone will perpetuate the former, and securely uphold the latter. Are our principles irreverent to majesty? They are quite the reverse: we ascribe to it perfection almost divine. We say, that the king can do no wrong: we say, that to do wrong is the property, not of power, but of weakness. We feel oppression, and will oppose it; but we know, for our constitution tells us, that oppression can never spring from the throne. We must, therefore, search elsewhere for its source: our infallible guide will direct us to it. Our constitution tells us, that all oppression springs from the ministers of the throne. The attributes of perfection, ascribed to the king, are, neither by the constitution, nor in fact, communicable to his ministers. They may do wrong; they have often done wrong; they have been often punished for doing wrong.

Here we may discern the true cause of all the impudent clamor

and unsupported accusations of the ministers and of their minions, that have been raised and made against the conduct of the Americans. Those ministers and minions are sensible, that the opposition is directed, not against his majesty, but against them; because they have abused his majesty's confidence, brought discredit upon his government, and derogated from his justice. They see the public vengeance collected in dark clouds around them: their consciences tell them, that it should be hurled, like a thunderbolt, on their guilty heads. Appalled with guilt and fear, they skulk behind the throne. Is it disrespectful to drag them into public view, and make a distinction between them and his majesty, under whose venerable name they daringly attempt to shelter their crimes? Nothing can more effectually contribute to establish his majesty on the throne, and to secure to him the affections of his people, than this distinction. By it we are taught to consider all the blessings of government as flowing from the throne; and to consider every instance of oppression as proceeding, which, in truth, is always the case, from the ministers.

If now, it is true, that all force employed for the purposes so often mentioned, is force unwarranted by any act of parliament; unsupported by any principle of the common law; unauthorized by any commission from the crown; that, instead of being employed for the support of the constitution and his majesty's government, it must be employed for the support of oppression and ministerial tyranny: if all this is true (and I flatter myself it appears to be true), can any one hesitate to say, that to resist such force is lawful, and that both the letter and the spirit of the British constitution justify such resistance?

Resistance, both by the letter and the spirit of the British constitution, may be carried further, when necessity requires it, than I have carried it. Many examples in the English history might be adduced, and many authorities of the greatest weight might be brought to show, that when the king, forgetting his character and his dignity, has stepped forth, and openly avowed and taken a part in such iniquitous conduct as has been described; in such cases, indeed, the distinction above mentioned, wisely made by the constitution for the security of the crown, could not be applied; because the crown had unconstitutionally rendered the application of it impossible. What has been the consequence? The distinction between him and his ministers has been lost: but they have not been raised to his situation: he has sunk to theirs.

SPEECH OF PATRICK HENRY,

MARCH 23, 1775,

IN THE CONVENTION OF DELEGATES OF VIRGINIA,

On the following resolutions, introduced by himself:—"*Resolved*, That a well-regulated militia, composed of gentlemen and yeomen, is the natural strength and only security of a free government; that such a militia in this colony, would forever render it unnecessary for the mother country to keep among us, for the purpose of our defence, any standing army of mercenary soldiers, always subversive of the quiet, and dangerous to the liberties of the people, and would obviate the pretext of taxing us for their support.

"That the establishment of such a militia is, at this time, peculiarly necessary, by the state of our laws for the protection and defence of the country, some of which are already expired, and others will shortly be so; and that the known remissness of government in calling us together in legislative capacity, renders it too insecure, in this time of danger and distress, to rely, that opportunity will be given of renewing them, in general assembly, or making any provision to secure our inestimable rights and liberties from those further violations with which they are threatened.

"*Resolved, therefore*, That this colony be immediately put into a state of defence, and that be a committee to prepare a plan for imbodying, arming and disciplining such a number of men as may be sufficient for that purpose."

Mr. President,

No man thinks more highly than I do of the patriotism, as well as abilities, of the very worthy gentlemen who have just addressed the house. But different men often see the same subject in different lights; and, therefore, I hope it will not be thought disrespectful to those gentlemen, if, entertaining, as I do, opinions of a character very opposite to theirs, I shall speak forth my sentiments freely and without reserve. This is no time for ceremony. The question before the house is one of awful moment to this country. For my own part, I consider it as nothing less than a question of freedom or slavery; and in proportion to the magnitude of the subject ought to be the freedom of the debate. It is only in this way that we can hope to arrive at truth, and fulfil the great responsibility which we hold to God and our country. Should I keep back my opinions at such a time, through fear of giving offence, I should consider myself as guilty of treason towards my country, and of an act of disloyalty toward the Majesty of Heaven, which I revere above all earthly kings.

Mr. President, it is natural to man to indulge in the illusions of

hope. We are apt to shut our eyes against a painful truth, and listen to the song of that siren, till she transforms us into beasts. Is this the part of wise men, engaged in a great and arduous struggle for liberty? Are we disposed to be of the number of those, who, having eyes, see not, and having ears, hear not, the things which so nearly concern their temporal salvation? For my part, whatever anguish of spirit it may cost, I am willing to know the whole truth; to know the worst, and to provide for it.

I have but one lamp by which my feet are guided; and that is the lamp of experience. I know of no way of judging of the future but by the past. And judging by the past, I wish to know what there has been in the conduct of the British ministry for the last ten years, to justify those hopes with which gentlemen have been pleased to solace themselves and the house? Is it that insidious smile with which our petition has been lately received? Trust it not, sir; it will prove a snare to your feet. Suffer not yourselves to be betrayed with a kiss. Ask yourselves how this gracious reception of our petition comports with those warlike preparations which cover our waters and darken our land. Are fleets and armies necessary to a work of love and reconciliation? Have we shown ourselves so unwilling to be reconciled, that force must be called in to win back our love? Let us not deceive ourselves, sir. These are the implements of war and subjugation; the last arguments to which kings resort. I ask gentlemen, sir, what means this martial array, if its purpose be not to force us to submission? Can gentlemen assign any other possible motive for it? Has Great Britain any enemy, in this quarter of the world, to call for all this accumulation of navies and armies? No, sir, she has none. They are meant for us: they can be meant for no other. They are sent over to bind and rivet upon us those chains, which the British ministry have been so long forging. And what have we to oppose to them? Shall we try argument? Sir, we have been trying that for the last ten years. Have we any thing new to offer upon the subject? Nothing. We have held the subject up in every light of which it is capable; but it has been all in vain. Shall we resort to entreaty and humble supplication? What terms shall we find, which have not been already exhausted? Let us not, I beseech you, sir, deceive ourselves longer. Sir, we have done every thing that could be done, to avert the storm which is now coming on. We have petitioned; we have remonstrated; we have supplicated; we have prostrated ourselves before the throne, and have implored its interposition to arrest the tyrannical hands of the ministry and parliament. Our petitions have been slighted; our remonstrances have produced additional violence and insult; our supplications have been disregarded; and we have been spurned, with contempt, from the foot of the throne! In

vain, after these things, may we indulge the fond hope of peace and reconciliation. There is no longer any room for hope. If we wish to be free—if we mean to preserve inviolate those inestimable privileges for which we have been so long contending—if we mean not basely to abandon the noble struggle in which we have been so long engaged, and which we have pledged ourselves never to abandon, until the glorious object of our contest shall be obtained—we must fight! I repeat it, sir, we must fight! An appeal to arms and to the God of Hosts is all that is left us!

They tell us, sir, that we are weak; unable to cope with so formidable an adversary. But when shall we be stronger? Will it be the next week, or the next year? Will it be when we are totally disarmed, and when a British guard shall be stationed in every house? Shall we gather strength by irresolution and inaction? Shall we acquire the means of effectual resistance, by lying supinely on our backs, and hugging the delusive phantom of hope, until our enemies shall have bound us hand and foot? Sir, we are not weak, if we make a proper use of those means which the God of nature hath placed in our power. Three millions of people, armed in the holy cause of liberty, and in such a country as that which we possess, are invincible by any force which our enemy can send against us. Besides, sir, we shall not fight our battles alone. There is a just God who presides over the destinies of nations, and who will raise up friends to fight our battles for us. The battle, sir, is not to the strong alone; it is to the vigilant, the active, the brave. Besides, sir, we have no election. If we were base enough to desire it, it is now too late to retire from the contest. There is no retreat, but in submission and slavery! Our chains are forged! Their clanking may be heard on the plains of Boston! The war is inevitable—and let it come! I repeat it, sir, let it come.

It is in vain, sir, to extenuate the matter. Gentlemen may cry, Peace, peace—but there is no peace. The war is actually begun! The next gale, that sweeps from the north, will bring to our ears the clash of resounding arms! Our brethren are already in the field! Why stand we here idle? What is it that gentlemen wish? What would they have? Is life so dear, or peace so sweet, as to be purchased at the price of chains and slavery? Forbid it, Almighty God! I know not what course others may take; but as for me, give me liberty, or give me death!

SPEECH OF PATRICK HENRY,

ON THE EXPEDIENCY OF ADOPTING THE

FEDERAL CONSTITUTION,

DELIVERED IN THE CONVENTION OF VIRGINIA, JUNE 5, 1788.

The preamble and the two first sections of the first article of the constitution being under consideration, Mr. Henry thus addressed the convention:—

Mr. Chairman,

I am much obliged to the very worthy gentleman* for his encomium. I wish I were possessed of talents, or possessed of any thing, that might enable me to elucidate this great subject. I am not free from suspicion: I am apt to entertain doubts: I rose yesterday to ask a question, which arose in my own mind. When I asked that question, I thought the meaning of my interrogation was obvious: the fate of this question and of America may depend on this. Have they said, we, the states? Have they made a proposal of a compact between states? If they had, this would be a confederation: it is otherwise most clearly a consolidated government. The question turns, sir, on that poor little thing—the expression, we, the people, instead of, the states of America. I need not take much pains to show, that the principles of this system are extremely pernicious, impolitic, and dangerous. Is this a monarchy, like England—a compact between prince and people; with checks on the former to secure the liberty of the latter? Is this a confederacy, like Holland—an association of a number of independent states, each of which retains its individual sovereignty? It is not a democracy, wherein the people retain all their rights securely. Had these principles been adhered to, we should not have been brought to this alarming transition, from a confederacy to a consolidated government. We have no detail of those great considerations which, in my opinion, ought to have abounded before we should recur to a government of this kind. Here is a revolution as radical as that which separated us from Great Britain. It is as radical, if, in this transition, our rights and privileges are endangered, and the sovereignty of the states relin-

* Mr. Lee, of Westmoreland.

quished. And cannot we plainly see, that this is actually the case? The rights of conscience, trial by jury, liberty of the press, all your immunities and franchises, all pretensions to human rights and privileges, are rendered insecure, if not lost, by this change so loudly talked of by some, and inconsiderately by others. Is this tame relinquishment of rights worthy of freemen? Is it worthy of that manly fortitude that ought to characterize republicans? It is said eight states have adopted this plan. I declare that if twelve states and an half had adopted it, I would, with manly firmness, and in spite of an erring world, reject it. You are not to inquire how your trade may be increased, nor how you are to become a great and powerful people, but how your liberties can be secured; for liberty ought to be the direct end of your government. Having premised these things, I shall, with the aid of my judgment and information, which I confess are not extensive, go into the discussion of this system more minutely. Is it necessary for your liberty, that you should abandon those great rights by the adoption of this system? Is the relinquishment of the trial by jury, and the liberty of the press, necessary for your liberty? Will the abandonment of your most sacred rights tend to the security of your liberty? Liberty, the greatest of all earthly blessings—give us that precious jewel, and you may take every thing else. But I am fearful I have lived long enough to become an old-fashioned fellow. Perhaps an invincible attachment to the dearest rights of man may, in these refined, enlightened days, be deemed old-fashioned: if so, I am contented to be so. I say, the time has been when every pulse of my heart beat for American liberty, and which, I believe, had a counterpart in the breast of every true American. But suspicions have gone forth—suspicions of my integrity. It has been publicly reported that my professions are not real. Twenty-three years ago was I supposed a traitor to my country: I was then said to be a bane of sedition, because I supported the rights of my country: I may be thought suspicious, when I say our privileges and rights are in danger; but, sir, a number of the people of this country are weak enough to think these things are too true. I am happy to find that the gentlemen on the other side declare they are groundless; but, sir, suspicion is a virtue, as long as its object is the preservation of the public good, and as long as it stays within proper bounds: should it fall on me, I am contented: conscious rectitude is a powerful consolation: I trust there are many who think my professions for the public good to be real. Let your suspicion look to both sides: there are many on the other side, who, possibly, may have been persuaded of the necessity of these measures, which I conceive to be dangerous to your liberty. Guard with jealous attention the public liberty. Suspect every one who approaches that jewel. Un-

fortunately, nothing will preserve it but downright force. Whenever you give up that force, you are inevitably ruined. I am answered by gentlemen, that though I may speak of terrors, yet the fact is, that we are surrounded by none of the dangers I apprehend. I conceive this new government to be one of those dangers: it has produced those horrors which distress many of our best citizens. We are come hither to preserve the poor commonwealth of Virginia, if it can be possibly done: something must be done to preserve your liberty and mine. The confederation, this same despised government, merits, in my opinion, the highest encomium: it carried us through a long and dangerous war: it rendered us victorious in that bloody conflict with a powerful nation: it has secured us a territory greater than any European monarch possesses: and shall a government which has been thus strong and vigorous be accused of imbecility, and abandoned for want of energy? Consider what you are about to do, before you part with this government. Take longer time in reckoning things: revolutions like this have happened in almost every country in Europe: similar examples are to be found in ancient Greece and ancient Rome—instances of the people losing their liberty by their own carelessness and the ambition of a few. We are cautioned, by the honorable gentleman who presides, against faction and turbulence. I acknowledge that licentiousness is dangerous, and that it ought to be provided against: I acknowledge also the new form of government may effectually prevent it: yet there is another thing it will as effectually do: it will oppress and ruin the people. There are sufficient guards placed against sedition and licentiousness; for when power is given to this government to suppress these, or for any other purpose, the language it assumes is clear, express, and unequivocal; but when this constitution speaks of privileges, there is an ambiguity, sir, a fatal ambiguity—an ambiguity which is very astonishing. In the clause under consideration, there is the strangest language that I can conceive. I mean when it says, that there shall not be more representatives than one for every 30,000. Now, sir, how easy is it to evade this privilege? "The number shall not exceed one for every 30,000." This may be satisfied by one representative from each state. Let our numbers be ever so great, this immense continent may, by this artful expression, be reduced to have but thirteen representatives. I confess this construction is not natural; but the ambiguity of the expression lays a good ground for a quarrel. Why was it not clearly and unequivocally expressed, that they should be entitled to have one for every 30,000? This would have obviated all disputes; and was this difficult to be done? What is the inference? When population increases, and a state shall send representatives in this proportion, Congress may remand them, because the right of hav-

ing one for every 30,000 is not clearly expressed. This possibility of reducing the number to one for each state, approximates to probability by that other expression, "but each state shall at least have one representative." Now, is it not clear that, from the first expression, the number might be reduced so much, that some states should have no representative at all, were it not for the insertion of this last expression? And as this is the only restriction upon them, we may fairly conclude that they may restrain the number to one from each state. Perhaps the same horrors may hang over my mind again. I shall be told I am continually afraid; but, sir, I have strong cause of apprehension. In some parts of the plan before you, the great rights of freemen are endangered, in other parts absolutely taken away. How does your trial by jury stand? In civil cases gone—not sufficiently secured in criminal—this best privilege is gone. But we are told, that we need not fear, because those in power, being our representatives, will not abuse the powers we put in their hands. I am not well versed in history; but I will submit to your recollection, whether liberty has been destroyed most often by the licentiousness of the people, or by the tyranny of rulers. I imagine, sir, you will find the balance on the side of tyranny. Happy will you be, if you miss the fate of those nations, who, omitting to resist their oppressors, or negligently suffering their liberty to be wrested from them, have groaned under intolerable despotism! Most of the human race are now in this deplorable condition. And those nations who have gone in search of grandeur, power, and splendor, have also fallen a sacrifice, and been the victims of their own folly. While they acquired those visionary blessings, they lost their freedom. My great objection to this government is, that it does not leave us the means of defending our rights, or of waging war against tyrants. It is urged by some gentlemen, that this new plan will bring us an acquisition of strength; an army, and the militia of the states. This is an idea extremely ridiculous: gentlemen cannot be in earnest. This acquisition will trample on your fallen liberty. Let my beloved Americans guard against that fatal lethargy that has pervaded the universe. Have we the means of resisting disciplined armies, when our only defence, the militia, is put into the hands of congress?

The honorable gentleman said, that great danger would ensue, if the convention rose without adopting this system. I ask, where is that danger? I see none. Other gentlemen have told us, within these walls, that the union is gone—or that the union will be gone. Is not this trifling with the judgment of their fellow-citizens? Till they tell us the ground of their fears, I will consider them as imaginary. I rose to make inquiry where those dangers were: they could make no answer: I believe I never shall have

that answer. Is there a disposition in the people of this country to revolt against the dominion of laws? Has there been a single tumult in Virginia? Have not the people of Virginia, when laboring under the severest pressure of accumulated distresses, manifested the most cordial acquiescence in the execution of the laws? What could be more awful than their unanimous acquiescence under general distresses? Is there any revolution in Virginia? Whither is the spirit of America gone? Whither is the genius of America fled? It was but yesterday, when our enemies marched in triumph through our country. Yet the people of this country could not be appalled by their pompous armaments: they stopped their career, and victoriously captured them: where is the peril now, compared to that?

Some minds are agitated by foreign alarms. Happily for us, there is no real danger from Europe: that country is engaged in more arduous business: from that quarter, there is no cause of fear: you may sleep in safety forever for them. Where is the danger? If, sir, there was any, I would recur to the American spirit to defend us—that spirit which has enabled us to surmount the greatest difficulties: to that illustrious spirit I address my most fervent prayer, to prevent our adopting a system destructive to liberty. Let not gentlemen be told, that it is not safe to reject this government. Wherefore is it not safe? We are told there are dangers; but those dangers are ideal; they cannot be demonstrated. To encourage us to adopt it, they tell us, that there is a plain, easy way of getting amendments. When I come to contemplate this part, I suppose that I am mad, or that my countrymen are so. The way to amendment is, in my conception, shut. Let us consider this plain, easy way. "The congress, whenever two thirds of both houses shall deem it necessary, shall propose amendments to this constitution; or, on the application of the legislatures of two thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this constitution, when ratified by the legislatures of three fourths of the several states, or by conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the congress. Provided, that no amendment which may be made prior to the year 1808, shall, in any manner, affect the first and fourth clauses in the ninth section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the senate." Hence it appears, that three fourths of the states must ultimately agree to any amendments that may be necessary. Let us consider the consequences of this. However uncharitable it may appear, yet I must express my opinion, that the most unworthy characters may get into power and prevent the introduction of amendments. Let

us suppose (for the case is supposable, possible, and probable), that you happen to deal these powers to unworthy hands; will they relinquish powers already in their possession, or agree to amendments? Two thirds of the congress, or of the state legislatures, are necessary even to propose amendments. If one third of these be unworthy men, they may prevent the application for amendments; but a destructive and mischievous feature is, that three fourths of the state legislatures, or of the state conventions, must concur in the amendments when proposed. In such numerous bodies, there must necessarily be some designing, bad men. To suppose that so large a number as three fourths of the states will concur, is to suppose that they will possess genius, intelligence, and integrity, approaching to miraculous. It would, indeed, be miraculous, that they should concur in the same amendments, or even in such as would bear some likeness to one another. For four of the smallest states, that do not collectively contain one tenth part of the population of the United States, may obstruct the most salutary and necessary amendments. Nay, in these four states, six tenths of the people may reject these amendments; and suppose that amendments shall be opposed to amendments (which is highly probable), is it possible that three fourths can ever agree to the same amendments? A bare majority in these four small states may hinder the adoption of amendments; so that we may fairly and justly conclude, that one twentieth part of the American people may prevent the removal of the most grievous inconveniences and oppression, by refusing to accede to amendments. A trifling minority may reject the most salutary amendments. Is this an easy mode of securing the public liberty? It is, sir, a most fearful situation, when the most contemptible minority can prevent the alteration of the most oppressive government; for it may, in many respects, prove to be such. Is this the spirit of republicanism? What, sir, is the genius of democracy? Let me read that clause of the Bill of Rights of Virginia which relates to this:—3d clause; "That government is, or ought to be, instituted for the common benefit, protection and security of the people, nation, or community. Of all the various modes and forms of government, that is best, which is capable of producing the greatest degree of happiness and safety, and is most effectually secured against the danger of mal-administration, and that whenever any government shall be found inadequate, or contrary to these purposes, a majority of the community hath an indubitable, unalienable and indefeasible right to reform, alter, or abolish it, in such manner as shall be judged most conducive to the public weal." This, sir, is the language of democracy—that a majority of the community have a right to alter their government when found to be oppressive; but how different is the genius of your new consti-

tution from this! How different from the sentiments of freemen, that a contemptible minority can prevent the good of the majority! If, then, gentlemen, standing on this ground, are come to that point, that they are willing to bind themselves and their posterity to be oppressed, I am amazed and inexpressibly astonished. If this be the opinion of the majority, I must submit; but to me, sir, it appears perilous and destructive; I cannot help thinking so: perhaps it may be the result of my age; these may be feelings natural to a man of my years, when the American spirit has left him, and his mental powers, like the members of the body, are decayed. If, sir, amendments are left to the twentieth, or to the tenth part of the people of America, your liberty is gone forever. We have heard that there is a great deal of bribery practised in the house of commons in England; and that many of the members raise themselves to preferments by selling the rights of the people. But, sir, the tenth part of that body cannot continue oppressions on the rest of the people. English liberty is, in this case, on a firmer foundation than American liberty. It will be easily contrived to procure the opposition of one tenth of the people to any alteration, however judicious.

The honorable gentleman who presides, told us, that to prevent abuses in our government, we will assemble in convention, recall our delegated powers, and punish our servants for abusing the trust reposed in them. Oh, sir, we should have fine times indeed, if, to punish tyrants, it were only sufficient to assemble the people. Your arms, wherewith you could defend yourselves, are gone; and you have no longer an aristocratical, no longer a democratical spirit. Did you ever read of any revolution, in any nation, brought about by the punishment of those in power, inflicted by those who had no power at all? You read of a riot act in a country which is called one of the freest in the world, where a few neighbors cannot assemble without the risk of being shot by a hired soldiery, the engines of despotism. We may see such an act in America. A standing army we shall have, also, to execute the execrable commands of tyranny; and how are you to punish them? Will you order them to be punished? Who shall obey these orders? Will your mace-bearer be a match for a disciplined regiment? In what situation are we to be?

The clause before you gives a power of direct taxation, unbounded and unlimited; exclusive power of legislation in all cases whatsoever, for ten miles square, and over all places purchased for the erection of forts, magazines, arsenals, dock-yards, &c. What resistance could be made? The attempt would be madness. You will find all the strength of this country in the hands of your enemies: those garrisons will naturally be the strongest places in the country. Your militia is given up to congress, also, in another

part of this plan: they will therefore act as they think proper: all power will be in their own possession: you cannot force them to receive their punishment. Of what service would militia be to you, when most probably you will not have a single musket in the state? For, as arms are to be provided by congress, they may, or may not, furnish them.

Let us here call your attention to that part which gives the congress power "to provide for organizing, arming and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states, respectively, the appointment of the officers, and the authority of training the militia, according to the discipline prescribed by congress." By this, sir, you see that their control over our last and best defence is unlimited. If they neglect or refuse to discipline or arm our militia, they will be useless: the states can do neither, this power being exclusively given to congress. The power of appointing officers over men not disciplined or armed is ridiculous; so that this pretended little remnant of power, left to the states, may, at the pleasure of congress, be rendered nugatory. Our situation will be deplorable indeed: nor can we ever expect to get this government amended; since I have already shown, that a very small minority may prevent it, and that small minority interested in the continuance of the oppression. Will the oppressor let go the oppressed? Was there ever an instance? Can the annals of mankind exhibit one single example, where rulers, overcharged with power, willingly let go the oppressed, though solicited and requested most earnestly? The application for amendments will therefore be fruitless. Sometimes the oppressed have got loose by one of those bloody struggles that desolate a country. But a willing relinquishment of power is one of those things, which human nature never was, nor ever will be, capable of.

The honorable gentleman's observations, respecting the people's right of being the agents in the formation of this government, are not accurate, in my humble conception. The distinction between a national government and a confederacy, is not sufficiently discerned. Had the delegates, who were sent to Philadelphia, a power to propose a consolidated government instead of a confederacy? Were they not deputed by states, and not by the people? The assent of the people, in their collective capacity, is not necessary to the formation of a federal government. The people have no right to enter into leagues, alliances, or confederations: they are not the proper agents for this purpose: states and sovereign powers are the only proper agents for this kind of government. Show me an instance where the people have exercised this business: has it not always gone through the legislatures? I refer you to the treaties with France, Holland, and other nations: how

were they made? Were they not made by the states? Are the people, therefore, in their aggregate capacity, the proper persons to form a confederacy? This, therefore, ought to depend on the consent of the legislatures; the people having never sent delegates to make any proposition of changing the government. Yet I must say, at the same time, that it was made on grounds the most pure; and perhaps I might have been brought to consent to it, so far as to the change of government; but there is one thing in it which I never would acquiesce in. I mean, the changing it into a consolidated government, which is so abhorrent to my mind.

The honorable gentleman then went on to the figure we make with foreign nations; the contemptible one we make in France and Holland, which, according to the substance of my notes, he attributes to the present feeble government. An opinion has gone forth, we find, that we are a contemptible people: the time has been when we were thought otherwise. Under this same despised government, we commanded the respect of all Europe: wherefore are we now reckoned otherwise? The American spirit has fled from hence: it has gone to regions where it has never been expected: it has gone to the people of France, in search of a splendid government—a strong, energetic government. Shall we imitate the example of those nations who have gone from a simple to a splendid government? Are those nations more worthy of our imitation? What can make an adequate satisfaction to them for the loss they have suffered in attaining such a government—for the loss of their liberty? If we admit this consolidated government, it will be because we like a great and splendid one. Some way or other we must be a great and mighty empire: we must have an army, and a navy, and a number of things. When the American spirit was in its youth, the language of America was different: liberty, sir, was then the primary object. We are descended from a people whose government was founded on liberty: our glorious forefathers, of Great Britain, made liberty the foundation of every thing. That country is become a great, mighty and splendid nation; not because their government is strong and energetic; but, sir, because liberty is its direct end and foundation. We drew the spirit of liberty from our British ancestors: by that spirit we have triumphed over every difficulty. But now, sir, the American spirit, assisted by the ropes and chains of consolidation, is about to convert this country into a powerful and mighty empire. If you make the citizens of this country agree to become the subjects of one great consolidated empire of America, your government will not have sufficient energy to keep them together: such a government is incompatible with the genius of republicanism. There will be no checks, no real balances, in this government. What can avail your specious, imaginary balances; your

rope-dancing, chain-rattling, ridiculous, ideal checks and contrivances? But, sir, we are not feared by foreigners: we do not make nations tremble. Would this constitute happiness, or secure liberty? I trust, sir, our political hemisphere will ever direct its operations to the security of those objects. Consider our situation, sir: go to the poor man; ask him what he does: he will inform you that he enjoys the fruits of his labor, under his own fig-tree, with his wife and children around him, in peace and security. Go to every other member of the society; you will find the same tranquil ease and content; you will find no alarms or disturbances! Why, then, tell us of dangers, to terrify us into an adoption of this new form of government? And yet who knows the dangers that this new system may produce? They are out of the sight of the common people: they cannot foresee latent consequences. I dread the operation of it on the middling and lower classes of people: it is for them I fear the adoption of this system. I fear I tire the patience of the committee; but I beg to be indulged with a few more observations.

When I thus profess myself an advocate for the liberty of the people, I shall be told I am a designing man, that I am to be a great man, that I am to be a demagogue; and many similar illiberal insinuations will be thrown out; but, sir, conscious rectitude outweighs these things with me. I see great jeopardy in this new government: I see none from our present one. I hope some gentleman or other will bring forth, in full array, those dangers, if there be any, that we may see and touch them: I have said that I thought this a consolidated government: I will now prove it. Will the great rights of the people be secured by this government? Suppose it should prove oppressive; how can it be altered? Our bill of rights declares, "that a majority of the community hath an indubitable, unalienable and indefeasible right to reform, alter or abolish it, in such manner as shall be judged most conducive to the public weal." I have just proved, that one tenth, or less, of the people of America—a most despicable minority—may prevent this reform, or alteration. Suppose the people of Virginia should wish to alter their government; can a majority of them do it? No, because they are connected with other men; or, in other words, consolidated with other states. When the people of Virginia, at a future day, shall wish to alter their government, though they should be unanimous in this desire, yet they may be prevented therefrom by a despicable minority at the extremity of the United States. The founders of your own constitution made your government changeable; but the power of changing it is gone from you! Whither is it gone? It is placed in the same hands that hold the rights of twelve other states; and those who hold those rights have right and power to keep them. It is not the particu-

lar government of Virginia: one of the leading features of that government is, that a majority can alter it, when necessary for the public good. This government is not a Virginian, but an American government. Is it not therefore a consolidated government? The sixth clause of your bill of rights tells you, "that elections of members to serve as representatives of the people in assembly, ought to be free, and that all men, having sufficient evidence of permanent, common interest with, and attachment to, the community, have the right of suffrage, and cannot be taxed or deprived of their property, for public uses, without their own consent, or that of their representatives so elected, nor bound by any law to which they have not in like manner assented for the public good." But what does this constitution say? The clause under consideration gives an unlimited and unbounded power of taxation. Suppose every delegate from Virginia opposes a law laying a tax, what will it avail? They are opposed by a majority: eleven members can destroy their efforts: those feeble ten cannot prevent the passing the most oppressive tax-law; so that, in direct opposition to the spirit and express language of your declaration of rights, you are taxed, not by your own consent, but by people who have no connection with you.

The next clause of the bill of rights tells you, "that all power of suspending law, or the execution of laws, by any authority, without the consent of the representatives of the people, is injurious to their rights, and ought not to be exercised." This tells us that there can be no suspension of government, or laws, without our own consent; yet this constitution can counteract and suspend any of our laws, that contravene its oppressive operation; for they have the power of direct taxation, which suspends our bill of rights; and it is expressly provided, that they can make all laws necessary for carrying their powers into execution; and it is declared paramount to the laws and constitutions of the states. Consider how the only remaining defence we have left is destroyed in this manner. Besides the expenses of maintaining the senate and other house in as much splendor as they please, there is to be a great and mighty president, with very extensive powers—the powers of a king. He is to be supported in extravagant magnificence; so that the whole of our property may be taken by this American government, by laying what taxes they please, giving themselves what salaries they please, and suspending our laws at their pleasure. I might be thought too inquisitive, but I believe I should take up but very little of your time in enumerating the little power that is left to the government of Virginia; for this power is reduced to little or nothing. Their garrisons, magazines, arsenals, and forts, which will be situated in the strongest places within the states—their ten miles square, with all the fine ornaments of human

life, added to their powers, and taken from the states, will reduce the power of the latter to nothing. The voice of tradition, I trust, will inform posterity of our struggles for freedom. If our descendants be worthy the name of Americans, they will preserve, and hand down to their latest posterity, the transactions of the present times; and though, I confess, my exclamations are not worthy the hearing, they will see that I have done my utmost to preserve their liberty; for I never will give up the power of direct taxation, but for a scourge. I am willing to give it conditionally; that is, after non-compliance with requisitions: I will do more, sir, and what I hope will convince the most skeptical man, that I am a lover of the American union; that in case Virginia shall not make punctual payment, the control of our custom-houses, and the whole regulation of trade, shall be given to congress; and that Virginia shall depend on congress even for passports, till Virginia shall have paid the last farthing, and furnished the last soldier. Nay, sir, there is another alternative to which I would consent; even that they should strike us out of the union, and take away from us all federal privileges, till we comply with federal requisitions; but let it depend upon our own pleasure to pay our money in the most easy manner for our people. Were all the states, more terrible than the mother country, to join against us, I hope Virginia could defend herself; but, sir, the dissolution of the union is most abhorrent to my mind. The first thing I have at heart is American liberty; the second thing is American union; and I hope the people of Virginia will endeavor to preserve that union. The increasing population of the Southern States is far greater than that of New England; consequently, in a short time, they will be far more numerous than the people of that country. Consider this, and you will find this state more particularly interested to support American liberty, and not bind our posterity by an improvident relinquishment of our rights. I would give the best security for a punctual compliance with requisitions; but I beseech gentlemen, at all hazards, not to grant this unlimited power of taxation.

The honorable gentleman has told us that these powers, given to congress, are accompanied by a judiciary which will correct all. On examination, you will find this very judiciary oppressively constructed, your jury-trial destroyed, and the judges dependent on congress. In this scheme of energetic government, the people will find two sets of tax-gatherers—the state and the federal sheriffs. This, it seems to me, will produce such dreadful oppression, as the people cannot possibly bear. The federal sheriff may commit what oppression, make what distresses, he pleases, and ruin you with impunity; for how are you to tie his hands? Have you any sufficient, decided means of preventing him from sucking your blood by speculations, commissions, and fees? Thus thou-

sands of your people will be most shamefully robbed. Our state sheriffs, those unfeeling blood-suckers, have, under the watchful eye of our legislature, committed the most horrid and barbarous ravages on our people. It has required the most constant vigilance of the legislature to keep them from totally ruining the people. A repeated succession of laws has been made, to suppress their iniquitous speculations and cruel extortions; and as often has their nefarious ingenuity devised methods of evading the force of those laws: in the struggle, they have generally triumphed over the legislature. It is a fact, that lands have sold for five shillings, which were worth one hundred pounds. If sheriffs, thus immediately under the eye of our state legislature and judiciary, have dared to commit these outrages, what would they not have done if their masters had been at Philadelphia or New York? If they perpetrate the most unwarrantable outrage on your persons or property, you cannot get redress on this side of Philadelphia or New York; and how can you get it there? If your domestic avocations could permit you to go thither, there you must appeal to judges sworn to support this constitution in opposition to that of any state, and who may also be inclined to favor their own officers. When these harpies are aided by excisemen, who may search, at any time, your houses and most secret recesses, will the people bear it? If you think so, you differ from me. Where I thought there was a possibility of such mischiefs, I would grant power with a niggardly hand; and here there is a strong probability that these oppressions shall actually happen. I may be told, that it is safe to err on that side; because such regulations may be made by congress, as shall restrain these officers, and because laws are made by our representatives, and judged by righteous judges; but, sir, as these regulations may be made, so they may not; and many reasons there are to induce a belief, that they will not: I shall therefore be an infidel on that point till the day of my death.

This constitution is said to have beautiful features; but when I come to examine these features, sir, they appear to me horribly frightful. Among other deformities, it has an awful squinting; it squints towards monarchy: and does not this raise indignation in the breast of every true American? Your president may easily become king. Your senate is so imperfectly constructed, that your dearest rights may be sacrificed by what may be a small minority; and a very small minority may continue forever unchangeably this government, although horridly defective. Where are your checks in this government? Your strong-holds will be in the hands of your enemies. It is on a supposition that your American governors shall be honest, that all the good qualities of this government are founded; but its defective and imperfect con-

struction puts it in their power to perpetrate the worst of mischiefs, should they be bad men. And, sir, would not all the world, from the eastern to the western hemisphere, blame our distracted folly in resting our rights upon the contingency of our rulers being good or bad? Show me that age and country where the rights and liberties of the people were placed on the sole chance of their rulers being good men, without a consequent loss of liberty. I say that the loss of that dearest privilege has ever followed, with absolute certainty, every such mad attempt. If your American chief be a man of ambition and abilities, how easy will it be for him to render himself absolute! The army is in his hands, and, if he be a man of address, it will be attached to him; and it will be the subject of long meditation with him to seize the first auspicious moment to accomplish his design. And, sir, will the American spirit solely relieve you when this happens? I would rather infinitely—and I am sure most of this convention are of the same opinion, have a king, lords and commons, than a government so replete with such insupportable evils. If we make a king, we may prescribe the rules by which he shall rule his people, and interpose such checks as shall prevent him from infringing them; but the president in the field, at the head of his army, can prescribe the terms on which he shall reign master, so far that it will puzzle any American ever to get his neck from under the galling yoke. I cannot, with patience, think of this idea. If ever he violates the laws, one of two things will happen: he will come at the head of his army to carry every thing before him; or, he will give bail, or do what Mr. Chief Justice will order him. If he be guilty, will not the recollection of his crimes teach him to make one bold push for the American throne? Will not the immense difference between being master of every thing, and being ignominiously tried and punished, powerfully excite him to make this bold push? But, sir, where is the existing force to punish him? Can he not, at the head of his army, beat down every opposition? Away with your president: we shall have a king: the army will salute him monarch: your militia will leave you, and assist in making him king, and fight against you: and what have you to oppose this force? What will then become of you and your rights? Will not absolute despotism ensue?

What can be more defective than the clause concerning the elections? The control given to congress, over the time, place and manner of holding elections, will totally destroy the end of suffrage. The elections may be held at one place, and the most inconvenient in the state; or they may be at remote distances from those who have a right of suffrage: hence, nine out of ten must either not vote at all, or vote for strangers; for the most influential characters will be applied to, to know who are the most

proper to be chosen. I repeat, that the control of congress over the manner, &c. of electing, well warrants this idea. The natural consequence will be, that this democratic branch will possess none of the public confidence: the people will be prejudiced against representatives chosen in such an injudicious manner. The proceedings in the northern conclave will be hidden from the yeomanry of this country. We are told, that the yeas and nays shall be taken and entered on the journals: this, sir, will avail nothing: it may be locked up in their chests, and concealed forever from the people; for they are not to publish what parts they think require secrecy; they may think, and will think, the whole requires it.

Another beautiful feature of this constitution is the publication, from time to time, of the receipts and expenditures of the public money. This expression, from time to time, is very indefinite and indeterminate: it may extend to a century. Grant that any of them are wicked; they may squander the public money so as to ruin you, and yet this expression will give you no redress. I say, they may ruin you; for where, sir, is the responsibility? The yeas and nays will show you nothing, unless they be fools as well as knaves; for, after having wickedly trampled on the rights of the people, they would act like fools indeed, were they to publish and divulge their iniquity, when they have it equally in their power to suppress and conceal it. Where is the responsibility—that leading principle in the British government? In that government, a punishment, certain and inevitable, is provided; but in this, there is no real, actual punishment for the grossest mal-administration. They may go without punishment, though they commit the most outrageous violation on our immunities. That paper may tell me they will be punished. I ask, By what law? They must make the law, for there is no existing law to do it. What—will they make a law to punish themselves? This, sir, is my great objection to the constitution, that there is no true responsibility, and that the preservation of our liberty depends on the single chance of men being virtuous enough to make laws to punish themselves. In the country from which we are descended, they have real, and not imaginary responsibility; for there, mal-administration has cost their heads to some of the most saucy geniuses that ever were. The senate, by making treaties, may destroy your liberty and laws, for want of responsibility. Two thirds of those that shall happen to be present, can, with the president, make treaties, that shall be the supreme law of the land: they may make the most ruinous treaties, and yet there is no punishment for them. Whoever shows me a punishment provided for them, will oblige me. So, sir, notwithstanding there are eight pillars, they want another. Where will they make another? I

trust, sir, the exclusion of the evils wherewith this system is replete, in its present form, will be made a condition precedent to its adoption, by this or any other state. The transition from a general, unqualified admission to offices, to a consolidation of government, seems easy; for, though the American states are dissimilar in their structure, this will assimilate them: this, sir, is itself a strong consolidating feature, and is not one of the least dangerous in that system. Nine states are sufficient to establish this government over those nine. Imagine that nine have come into it. Virginia has certain scruples. Suppose she will consequently refuse to join with those states: may not they still continue in friendship and union with her? If she vests her annual requisitions in dollars, do you think their stomachs will be so squeamish as to refuse her dollars? Will they not accept her regiments? They would intimidate you into an inconsiderate adoption, and frighten you with ideal evils, and that the union shall be dissolved. 'Tis a bugbear, sir: the fact is, sir, that the eight adopting states can hardly stand on their own legs. Public fame tells us, that the adopting states have already heart-burnings and animosity, and repent their precipitate hurry: this, sir, may occasion exceeding great mischief. When I reflect on these, and many other circumstances, I must think those states will be fond to be in confederacy with us. If we pay our quota of money annually, and furnish our ratable number of men, when necessary, I can see no danger from a rejection. The history of Switzerland clearly proves, that we might be in amicable alliance with those states, without adopting this constitution. Switzerland is a confederacy, consisting of dissimilar governments. This is an example, which proves that governments, of dissimilar structures, may be confederated. That confederate republic has stood upwards of four hundred years; and, although several of the individual republics are democratic, and the rest aristocratic, no evil has resulted from this dissimilarity, for they have braved all the power of France and Germany, during that long period. The Swiss spirit, sir, has kept them together: they have encountered and overcome immense difficulties, with patience and fortitude. In the vicinity of powerful and ambitious monarchs, they have retained their independence, republican simplicity and valor. Look at the peasants of that country, and of France, and mark the difference. You will find the condition of the former far more desirable and comfortable. No matter whether a people be great, splendid and powerful, if they enjoy freedom. The Turkish grand seignior, along side of our president, would put us to disgrace; but we should be abundantly consoled for this disgrace, should our citizen be put in contrast with the Turkish slave.

The most valuable end of government is the liberty of the in-

habitants. No possible advantages can compensate for the loss of this privilege. Show me the reason why the American union is to be dissolved. Who are those eight adopting states? Are they averse to give us a little time to consider, before we conclude? Would such a disposition render a junction with them eligible; or, is it the genius of that kind of government, to precipitate people hastily into measures of the utmost importance, and grant no indulgence? If it be, sir, is it for us to accede to such a government? We have a right to have time to consider—we shall therefore insist upon it. Unless the government be amended, we can never accept it. The adopting states will doubtless accept our money and our regiments; and what is to be the consequence, if we are disunited? I believe that it is yet doubtful, whether it is not proper to stand by a while, and see the effect of its adoption in other states. In forming a government, the utmost care should be taken, to prevent its becoming oppressive; and this government is of such an intricate and complicated nature, that no man on this earth can know its real operation. The other states have no reason to think, from the antecedent conduct of Virginia, that she has any intention of seceding from the union, or of being less active to support the general welfare. Would they not, therefore, acquiesce in our taking time to deliberate—deliberate whether the measure be not perilous, not only for us, but the adopting states? Permit me, sir, to say, that a great majority of the people, even in the adopting states, are averse to this government. I believe I would be right to say, that they have been egregiously misled. Pennsylvania has, perhaps, been tricked into it. If the other states, who have adopted it, have not been tricked, still they were too much hurried into its adoption. There were very respectable minorities in several of them; and, if reports be true, a clear majority of the people are averse to it. If we also accede, and it should prove grievous, the peace and prosperity of our country, which we all love, will be destroyed. This government has not the affection of the people at present. Should it be oppressive, their affection will be totally estranged from it—and, sir, you know that a government, without their affections, can neither be durable nor happy. I speak as one poor individual—but, when I speak, I speak the language of thousands. But, sir, I mean not to breathe the spirit, nor utter the language of secession.

I have trespassed so long on your patience, I am really concerned that I have something yet to say. The honorable member has said that we shall be properly represented: remember, sir, that the number of our representatives is but ten, whereof six are a majority. Will those men be possessed of sufficient information? A particular knowledge of particular districts will not suffice. They must be well acquainted with agriculture, commerce, and a

great variety of other matters throughout the continent; they must know not only the actual state of nations in Europe and America, the situation of their farmers, cottagers and mechanics, but also the relative situation and intercourse of those nations. Virginia is as large as England. Our proportion of representatives is but ten men. In England, they have five hundred and thirty. The house of commons in England, numerous as they are, we are told, is bought, and have bartered away the rights of their constituents: what then shall become of us? Will these few protect our rights? Will they be incorruptible? You say they will be better men than the English commoners. I say they will be infinitely worse men, because they are to be chosen blindfolded: their election (one term, as applied to their appointment, is inaccurate) will be an involuntary nomination, and not a choice. I have, I fear, fatigued the committee, yet I have not said the one hundred thousandth part of what I have on my mind, and wish to impart. On this occasion, I conceived myself bound to attend strictly to the interest of the state; and I thought her dearest rights at stake: having lived so long—been so much honored—my efforts, though small, are due to my country. I have found my mind hurried on from subject to subject, on this very great occasion. We have all been out of order, from the gentleman who opened to-day, to myself. I did not come prepared to speak on so multifarious a subject, in so general a manner. I trust you will indulge me another time. Before you abandon the present system, I hope you will consider not only its defects, most naturally, but likewise those of that which you are to substitute for it. May you be fully apprised of the dangers of the latter, not by fatal experience, but by some abler advocate than I.

SPEECH OF EDMUND RANDOLPH.

ON THE EXPEDIENCY OF ADOPTING THE

FEDERAL CONSTITUTION,

DELIVERED IN THE CONVENTION OF VIRGINIA, JUNE 6, 1788.

Mr. Chairman,

I am a child of the revolution. My country, very early indeed, took me under her protection, at a time when I most wanted it, and by a succession of favors and honors, prevented even my most ardent wishes. I feel the highest gratitude and attachment to my country: her felicity is the most fervent prayer of my heart. Conscious of having exerted my faculties to the utmost in her behalf, if I have not succeeded in securing the esteem of my countrymen, I shall reap abundant consolation from the rectitude of my intentions: honors, when compared to the satisfaction accruing from a conscious independence and rectitude of conduct, are no equivalent. The unwearied study of my life shall be to promote her happiness. As a citizen, ambition and popularity are no objects with me. I expect, in the course of a year, to retire to that private station which I most sincerely and cordially prefer to all others.* The security of public justice, sir, is what I most fervently wish—as I consider that object to be the primary step to the attainment of public happiness. I can declare to the whole world, that in the part I take in this very important question, I am actuated by a regard for what I conceive to be our true interest. I can also, with equal sincerity, declare that I would join heart and hand in rejecting this system, did I conceive it would promote our happiness: but, having a strong conviction on my mind, at this time, that, by a dismion, we shall throw away all those blessings we have so earnestly fought for, and that a rejection of the constitution will operate dismion—pardon me if I discharge the obligation I owe to my country by voting for its adoption. We are told that the report of dangers is false. The cry of peace, sir, is false: say peace, when there is peace: it is but a sudden calm. The tempest growls over you—look around—wheresoever you

* Mr. Randolph was at this time governor of Virginia.

look, you see danger. When there are so many witnesses, in many parts of America, that justice is suffocated, shall peace and happiness still be said to reign? Candor, sir, requires an undisguised representation of our situation. Candor, sir, demands a faithful exposition of facts. Many citizens have found justice strangled and trampled under foot, through the course of jurisprudence in this country. Are those, who have debts due them, satisfied with your government? Are not creditors wearied with the tedious procrastination of your legal process—a process obscured by legislative mists? Cast your eyes to your seaports—see how commerce languishes: this country, so blessed, by nature, with every advantage that can render commerce profitable, through defective legislation, is deprived of all the benefits and emoluments she might otherwise reap from it. We hear many complaints on the subject of located lands—a variety of competitors claiming the same lands under legislative acts—public faith prostrated, and private confidence destroyed. I ask you if your laws are reverenced. In every well-regulated community, the laws command respect. Are yours entitled to reverence? We not only see violations of the constitution, but of national principles in repeated instances. How is the fact? The history of the violations of the constitution extends from the year 1776 to this present time—violations made by formal acts of the legislature: every thing has been drawn within the legislative vortex. There is one example of this violation in Virginia, of a most striking and shocking nature; an example so horrid, that if I conceived my country would passively permit a repetition of it, dear as it is to me, I would seek means of expatriating myself from it. A man, who was then a citizen, was deprived of his life, thus: from a mere reliance on general reports, a gentleman in the house of delegates informed the house, that a certain man (Josiah Phillips) had committed several crimes, and was running at large, perpetrating other crimes; he therefore moved for leave to attaint him. He obtained that leave instantly. No sooner did he obtain it, than he drew from his pocket a bill already written for that effect; it was read three times in one day, and carried to the senate: I will not say that it passed the same day through the senate; but he was attainted very speedily, and precipitately, without any proof better than vague reports! Without being confronted with his accusers and witnesses; without the privilege of calling for evidence in his behalf, he was sentenced to death, and was afterwards actually executed.* Was this arbitrary deprivation of life, the dearest gift of God to man, consistent with the genius of a republican government? Is this compatible with the spirit of freedom? This, sir,

* Mr. Wirt has satisfactorily shown that this statement is founded in error.—*Life of Patrick Henry*, p. 291, et seq.

has made the deepest impression on my heart, and I cannot contemplate it without horror.

There are still a multiplicity of complaints of the debility of the laws. Justice, in many instances, is so unattainable, that commerce may, in fact, be said to be stopped entirely. There is no peace, sir, in this land: can peace exist with injustice, licentiousness, insecurity, and oppression? These considerations, independent of many others which I have not yet enumerated, would be a sufficient reason for the adoption of this constitution, because it secures the liberty of the citizen, his person and property, and will invigorate and restore commerce and industry.

An additional reason to induce us to adopt it, is that excessive licentiousness which has resulted from the relaxation of our laws, and which will be checked by this government. Let us judge from the fate of more ancient nations. Licentiousness has produced tyranny among many of them: it has contributed as much (if not more) as any other cause whatsoever, to the loss of their liberties. I have respect for the integrity of our legislators: I believe them to be virtuous; but as long as the defects of the constitution exist, so long will laws be imperfect. The honorable gentleman went on further, and said, that the accession of eight states is not a reason for our adoption. Many other things have been alleged out of order—instead of discussing the system regularly, a variety of points are promiscuously debated, in order to make temporary impressions on the members. Sir, were I convinced of the validity of their arguments, I would join them heart and hand. Were I convinced that the accessions of eight states did not render our accession also necessary to preserve the union, I would not accede to it till it should be previously amended: but, sir, I am convinced that the union will be lost by our rejection. Massachusetts has adopted it; she has recommended subsequent amendments: her influence must be very considerable to obtain them: I trust my countrymen have sufficient wisdom and virtue to entitle them to equal respect.

Is it urged, that being wiser, we ought to prescribe amendments to the other states? I have considered this subject deliberately; weaned myself in endeavoring to find a possibility of preserving the union, without our unconditional ratification; but, sir, in vain; I find no other means. I ask myself a variety of questions applicable to the adopting states, and I conclude, will they repent of what they have done? Will they acknowledge themselves in an error? Or will they recede to gratify Virginia? My prediction is, that they will not. Shall we stand by ourselves, and be severed from the union if amendments cannot be had? I have every reason for determining within myself, that our rejection must dis-

solve the union; and that that dissolution will destroy our political happiness. The honorable gentleman was pleased to draw out several other arguments, out of order: that this government would destroy the state governments, the trial by jury, &c. &c. and concluded, by an illustration of his opinion, by a reference to the confederacy of the Swiss. Let us argue with unprejudiced minds: he says, that the trial by jury is gone—is this so? Although I have declared my determination to give my vote for it, yet I shall freely censure those parts which appear to me reprehensible. The trial by jury, in criminal cases, is secured; in civil cases, it is not so expressly secured, as I could wish it; but it does not follow, that congress has the power of taking away this privilege, which is secured by the constitution of each state, and not given away by this constitution. I have no fear on this subject—congress must regulate it so as to suit every state. I will risk my property on the certainty, that they will institute the trial by jury in such manner as shall accommodate the conveniences of the inhabitants in every state: the difficulty of ascertaining this accommodation, was the principal cause of its not being provided for. It will be the interest of the individuals composing congress, to put it on this convenient footing. Shall we not choose men respectable for their good qualities? Or can we suppose that men tainted with the worst vices will get into congress? I beg leave to differ from the honorable gentleman in another point. He dreads that great inconveniences will ensue from the federal court; that our citizens will be harassed by being carried thither. I cannot think that this power of the federal judiciary will necessarily be abused. The inconvenience here suggested, being of a general nature, affecting most of the states, will, by general consent of the states, be removed; and, I trust, such regulations shall be made, in this case, as will accommodate the people in every state. The honorable gentleman instanced the Swiss cantons, as an example, to show us the possibility, if not expediency, of being in amicable alliance with the other states, without adopting this system. Sir, references to history will be fatal in political reasoning, unless well guarded. Our mental ability is often so contracted, and powers of investigation so limited, that sometimes we adduce as an example in our favor, what, in fact, militates against us. Examine the situation of that country comparatively to us. Its extent and situation are totally different from ours: it is surrounded by powerful, ambitious, and reciprocally jealous nations; its territory small and the soil not very fertile. The peculiarity, sir, of their situation, has kept these cantons together, and not that system of alliance, to which the gentleman seems to attribute the durability and felicity of their connection.

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I have produced this example to show, that we ought not to

be amused with historical references, which have no kind of analogy to the points under our consideration. We ought to confine ourselves to those points solely, which have an immediate and strict similitude to the subject of our discussion. The reference made by the honorable gentleman over the way, is extremely inapplicable to us. Are the Swiss cantons circumstanced as we are? Are we surrounded by formidable nations? or are we situated in any manner like them? We are not, sir. Then it naturally results, that no such friendly intercourse as he flattered himself with, could take place, in case of a dissolution of our union. We are remotely situated from powerful nations, the dread of whose attack might impel us to unite firmly with one another: we are not situated in an inaccessible, strong position: we have to fear much from one another: we must soon feel the fatal effects of an imperfect system of union.

The honorable gentleman attacks the constitution, as he thinks it contrary to our bill of rights. Do we not appeal to the people, by whose authority all government is made? That bill of rights is of no validity, because, I conceive, it is not formed on due authority. It is not a part of our constitution: it has never secured us against any danger: it has been repeatedly disregarded and violated. But we must not discard the confederation, for the remembrance of its past services. I am attached to old servants. I have regard and tenderness for this old servant: but when reason tells us that it can no longer be retained without throwing away all it has gained us, and running the risk of losing every thing dear to us, must we still continue our attachment? Reason and my duty tell me not. Other gentlemen may think otherwise. But, sir, is it not possible that men may differ in sentiments, and still be honest? We have an inquisition within ourselves, that leads us not to offend so much against charity. The gentleman expresses a necessity of being suspicious of those who govern. I will agree with him in the necessity of political jealousy to a certain extent: but we ought to examine, how far this political jealousy ought to be carried. I confess that a certain degree of it is highly necessary to the preservation of liberty; but it ought not to be extended to a degree which is degrading and humiliating to human nature; to a degree of restlessness and active disquietude, sufficient to disturb a community, or preclude the possibility of political happiness and contentment. Confidence ought also to be equally limited. Wisdom shrinks from extremes, and fixes on a medium as her choice. Experience and history, the least fallible judges, teach us that, in forming a government, the powers to be given must be commensurate to the object. A less degree will defeat the intention, and a greater will subject the people to the depravity of rulers, who, though they are but the agents of the people, pervert their powers to their own emolument and ambitious views.

Mr. Chairman, I am sorry to be obliged to detain the house; but the relation of a variety of matters renders it now unavoidable. I informed the house yesterday, before rising, that I intended to show the necessity of having a national government, in preference to the confederation; also, to show the necessity of conceding the power of taxation, and of distinguishing between its objects; and I am the more happy, that I possess materials of information for that purpose. My intention then is, to satisfy the gentlemen of this committee, that a national government is absolutely indispensable, and that a confederacy is not eligible, in our present situation. The introductory step to this will be, to endeavor to convince the house of the necessity of the union, and that the present confederation is actually inadequate and unamendable. The extent of the country is objected to, by the gentleman over the way, as an insurmountable obstacle to the establishing a national government in the United States. It is a very strange and inconsistent doctrine, to admit the necessity of the union, and yet urge this last objection, which I think goes radically to the existence of the union itself. If the extent of the country be a conclusive argument against a national government, it is equally so against a union with the other states. Instead of entering largely into a discussion of the nature and effect of the different kinds of government, or into an inquiry into the particular extent of country, that may suit the genius of this or that government, I ask this question—Is this government necessary for the safety of Virginia? Is the union indispensable for our happiness? I confess it is imprudent for any nation to form alliance with another, whose situation and construction of government are dissimilar with its own. It is impolitic and improper for men of opulence to join their interest with men of indigence and chance. But we are now inquiring, particularly, whether Virginia, as contradistinguished from the other states, can exist without the union—a hard question, perhaps, after what has been said. I will venture, however, to say, she cannot. I shall not rest contented with asserting—I shall endeavor to prove. Look at the most powerful nations on earth. England and France have had recourse to this expedient. Those countries found it necessary to unite with their immediate neighbors, and this union has prevented the most lamentable mischiefs. What divine preëminence is Virginia possessed of, above other states? Can Virginia send her navy and thunder, to bid defiance to foreign nations? And can she exist without a union with her neighbors, when the most potent nations have found such a union necessary, not only to their political felicity, but their national existence? Let us examine her ability. Although it be impossible to determine, with accuracy, what degree of internal strength a nation ought to possess, to enable it to stand by itself; yet there are certain sure facts and cir-

cumstances, which demonstrate, that a particular nation cannot stand singly. I have spoken with freedom, and I trust I have done it with decency; but I must also speak with truth. If Virginia can exist without the union, she must derive that ability from one or other of these sources, viz: from her natural situation, or because she has no reason to fear from other nations. What is her situation? She is not inaccessible. She is not a petty republic, like that of St. Marino, surrounded with rocks and mountains, with a soil not very fertile, nor worthy the envy of surrounding nations. Were this, sir, her situation, she might, like that petty state, subsist separated from all the world. On the contrary, she is very accessible: the large, capacious bay of Chesapeake, which is but too excellently adapted for the admission of enemies, renders her very vulnerable. I am informed, and I believe rightly, because I derive my information from those whose knowledge is most respectable, that Virginia is in a very unhappy position, with respect to the access of foes by sea, though happily situated for commerce. This being her situation by sea, let us look at land. She has frontiers adjoining the states of Pennsylvania, Maryland and North Carolina. Two of those states have declared themselves members of the union. Will she be inaccessible to the inhabitants of those states? Cast your eyes to the western country, that is inhabited by cruel savages, your natural enemies. Besides their natural propensity to barbarity, they may be excited, by the gold of foreign enemies, to commit the most horrid ravages on your people. Our great, increasing population is one remedy to this evil; but, being scattered thinly over so extensive a country, how difficult it is to collect their strength, or defend the country! This is one point of weakness. I wish, for the honor of my countrymen, that it was the only one. There is another circumstance which renders us more vulnerable. Are we not weakened by the population of those whom we hold in slavery? The day may come, when they may make an impression upon us. Gentlemen, who have been long accustomed to the contemplation of the subject, think there is a cause of alarm in this case. The number of those people, compared to that of the whites, is in an immense proportion: their number amounts to two hundred and thirty-six thousand; that of the whites only to three hundred and fifty-two thousand. Will the American spirit, so much spoken of, repel an invading enemy, or enable you to obtain an advantageous peace? Manufactures and military stores may afford relief to a country exposed: have we these at present? Attempts have been made to have these here. If we shall be separated from the union, shall our chance of having these be greater? Or will not the want of these be more deplorable? We shall be told of the exertions of Virginia, under the confederation—her achievements, when she had no commerce. These,

sir, were necessary for her immediate safety; nor would these have availed, without the aid of the other states. Those states, then our friends, brothers and supporters, will, if disunited from us, be our bitterest enemies.

If then, sir, Virginia, from her situation, is not inaccessible, or invulnerable, let us consider if she be protected, by having no cause to fear from other nations: has she no cause to fear? You will have cause to fear as a nation, if disunited; you will not only have this cause to fear from yourselves, from that species of population I before mentioned, and your once sister states, but from the arms of other nations. Have you no cause of fear from Spain, whose dominions border on your country? Every nation, every people, in our circumstances, have always had abundant cause to fear. Let us see the danger to be apprehended from France: let us suppose Virginia separated from the other states: as part of the former confederated states, she will owe France a very considerable sum—France will be as magnanimous as ever. France, by the law of nations, will have a right to demand the whole of her, or of the others. If France were to demand it, what would become of the property of America? Could she not destroy what little commerce we have? Could she not seize our ships, and carry havoc and destruction before her on our shores? The most lamentable desolation would take place. We owe a debt to Spain also; do we expect indulgence from that quarter? That nation has a right to demand the debt due to it, and power to enforce that right. Will the Dutch be silent about the debt due to them? Is there any one pretension, that any of these nations will be patient? The debts due the British are also very considerable: these debts have been withheld contrary to treaty: if Great Britain will demand the payment of these debts, peremptorily, what will be the consequence? Can we pay them if demanded? Will no danger result from a refusal? Will the British nation suffer their subjects to be stripped of their property? Is not that nation amply able to do its subjects justice? Will the resentment of that powerful and supercilious nation sleep forever? If we become one, sole nation, uniting with our sister states, our means of defence will be greater; the indulgence for the payment of those debts will be greater, and the danger of an attack less probable. Moreover, vast quantities of lands have been sold, by citizens of this country, to Europeans, and these lands cannot be found. Will this fraud be countenanced or endured? Among so many causes of danger, shall we be secure, separated from our sister states? Weakness itself, sir, will invite some attack upon your country. Contemplate our situation deliberately, and consult history: it will inform you, that people in our circumstances have ever been attacked, and successfully: open any page, and you will there find our danger truly de-

picted. If such a people had any thing, was it not taken? The fate which will befall us, I fear, sir, will be, that we shall be made a partition of. How will these our troubles be removed? Can we have any dependence on commerce? Can we make any computation on this subject? Where will our flag appear? So high is the spirit of commercial nations, that they will spend five times the value of the object, to exclude their rivals from a participation in commercial profits: they seldom regard any expenses. If we should be divided from the rest of the states, upon what footing would our navigation in the Mississippi be? What would be the probable conduct of France and Spain? Every gentleman may imagine, in his own mind, the natural consequences. To these considerations I might add many others of a similar nature. Were I to say, that the boundary between us and North Carolina is not yet settled, I should be told, that Virginia and that state go together. But what, sir, will be the consequence of the dispute that may arise between us and Maryland, on the subject of Potomac river? It is thought, Virginia has a right to an equal navigation with them in that river. If ever it should be decided on grounds of prior right, their charter will inevitably determine it in their favor. The country called the Northern Neck will probably be severed from Virginia. There is not a doubt but the inhabitants of that part will annex themselves to Maryland, if Virginia refuse to accede to the union. The recent example of those regulations, lately made respecting that territory, will illustrate that probability. Virginia will also be in danger of a conflict with Pennsylvania, on the subject of boundaries. I know that some gentlemen are thoroughly persuaded, that we have a right to those disputed boundaries: if we have such a right, I know not where it is to be found.

Are we not borderers on states that will be separated from us? Call to mind the history of every part of the world, where nations have bordered on one another, and consider the consequences of our separation from the union. Peruse those histories, and you find such countries to have ever been almost a perpetual scene of bloodshed and slaughter. The inhabitants of one escaping from punishment into the other—protection given them—consequent pursuit, robbery, cruelty, and murder. A numerous standing army, that dangerous expedient, would be necessary, but not sufficient, for the defence of such borders. Every gentleman will amplify the scene in his own mind. If you wish to know the extent of such a scene, look at the history of England and Scotland before the union; you will see their borderers continually committing depredations and cruelties, of the most calamitous and deplorable nature, on one another.

Mr. Chairman, were we struck off from the union, and disputes

of the back lands should be renewed, which are of the most alarming nature, and which must produce uncommon mischiefs, can you inform me how this great subject would be settled? Virginia has a large unsettled country: she has, at last, quieted it; but there are great doubts whether she has taken the best way to effect it. If she has not, disagreeable consequences may ensue. I have before hinted at some other causes of quarrel between the other states and us; particularly the hatred that would be generated by commercial competition. I will only add, on that subject, that controversies may arise concerning the fisheries, which must terminate in wars. Paper money may also be an additional source of disputes. Rhode Island has been in one continued train of opposition to national duties and integrity: they have defrauded their creditors by their paper money. Other states have also had emissions of paper money to the ruin of credit and commerce. May not Virginia, at a future day, also recur to the same expedient? Has Virginia no affection for paper money, or disposition to violate contracts? I fear she is as fond of these measures as most other states in the union. The inhabitants of the adjacent states would be affected by the depreciation of paper money, which would assuredly produce a dispute with those states. This danger is taken away by the present constitution, as it provides "that no state shall emit bills of credit." Maryland has counteracted the policy of this state frequently, and may be meditating examples of this kind again. Before the revolution, there was a contest about those back lands, in which even government was a party: it was put an end to by the war. Pennsylvannia was ready to enter into a war with us for the disputed lands near the boundaries, and nothing but the superior prudence of the man who was at the head of affairs in Virginia, could have prevented it.

I beg leave to remind you of the strength of Massachusetts, and other states to the north, and what would their conduct be to us if disunited from them. In case of a conflict between us and Maryland or Pennsylvania, they would be aided by the whole strength of the more northern states; in short, by that of all the adopting states. For these reasons, I conceive, that if Virginia supposes she has no cause of apprehension, she will find herself in a fatal error. Suppose the American spirit in the fullest vigor in Virginia, what military preparations and exertions is she capable of making? The other states have upwards of three hundred and thirty thousand men capable of bearing arms: this will be a good army, or they can very easily raise a good army out of so great a number. Our militia amounts to fifty thousand; even stretching it to the improbable amount (urged by some) of sixty thousand—in case of an attack, what defence can we make? Who are militia? Can we depend solely upon these? I will pay the last tribute of grat-

itude to the militia of my country: they performed some of the most gallant feats during the last war, and acted as nobly as men inured to other avocations could be expected to do; but, sir, it is dangerous to look to them as our sole protectors. Did ever militia defend a country? Those of Pennsylvania were said to differ very little from regulars; yet these, sir, were insufficient for the defence of that state. The militia of our country will be wanted for agriculture: on this noblest of arts depends the virtue and the very existence of a country: if it be neglected, every thing else must be in a state of ruin and decay. It must be neglected if those hands which ought to attend to it, are occasionally called forth on military expeditions. Some, also, will be necessary for manufactures, and those mechanic arts which are necessary for the aid of the farmer and planter. If we had men sufficient in number to defend ourselves, it could not avail without other requisites. We must have a navy, to be supported in time of peace as well as war, to guard our coasts and defend us against invasions. The impossibility of building and equipping a fleet, in a short time, constitutes the necessity of having a certain number of ships of war always ready in time of peace. The maintaining a navy will require money—and where, sir, can we get money for this and other purposes? How shall we raise it? Review the enormity of the debts due by this country: the amount of the debt we owe to the continent, for bills of credit, rating at forty for one, will amount to between six and seven hundred thousand pounds. There is also due the continent the balance of requisitions due by us, and, in addition to this proportion of the old continental debt, there are the foreign, domestic, state military, and loan-office debts, to which when you add the British debt, where is the possibility of finding money to raise an army or navy? Review then your real ability. Shall we recur to loans? Nothing can be more impolitic: they impoverish a nation: we, sir, have nothing to repay them; nor, sir, can we procure them. Our numbers are daily increasing by emigration: but this, sir, will not relieve us, when our credit is gone, and it is impossible to borrow money. If the imposts and duties in Virginia, even on the present footing, be very unproductive, and not equal to our necessities, what would they be if we were separated from the union? From the first of September to the first of June, the amount put into the treasury is only fifty-nine thousand pounds, or a little more. But, sir, if smuggling be introduced in consequence of high duties, or otherwise, and the Potomac should be lost, what hope is there of getting money from these?

Shall we be asked if the impost would be bettered by the union? I answer that it will, sir. Credit being restored and confidence diffused in the country, merchants and men of wealth will be in-

duced to come among us; emigration will increase, and commerce will flourish: the impost will therefore be more sure and productive. Under these circumstances, can you find men to defend you? If not men, where can you have a navy? It is an old observation, that he who commands at sea will command the land; and it is justified by modern experience in war. The sea can only be commanded by commercial nations. The United States have every means, by nature, to enable them to distribute supplies mutually among one another, to supply other nations with many articles, and to carry for other nations. Our commerce would not be kindly received by foreigners, if transacted solely by ourselves; as it is the spirit of commercial nations to engross, as much as possible, the carrying trade, this makes it necessary to defend our commerce; but how shall we encompass this end? England has arisen to the greatest height, in modern times, by her navigation act and other excellent regulations. The same means would produce the same effects. We have inland navigation. Our last exports did not exceed one million of pounds. Our export trade is entirely in the hands of foreigners. We have no manufactures—depend for supplies on other nations, and so far are we from having any carrying trade, that, as I have already said, our exports are in the hands of foreigners. Besides the profit that might be made by our natural materials, much greater gains would accrue from their being first wrought before they were exported. England has reaped immense profits by this, nay, even by purchasing and working up those materials which their country did not afford: her success in commerce is generally ascribed to her navigation act. Virginia would not, encumbered as she is, agree to have such an act. Thus, for the want of a navy, are we deprived of the multifarious advantages of our natural situation; nor is it possible, that if the union is dissolved, we ever should have a navy sufficient either for our defence or the extension of our trade. I beg gentlemen to consider these two things—our inability to raise and man a navy, and the dreadful consequences of the dissolution of the union.

I will close this catalogue of the evils of the dissolution of the union, by recalling to your mind what passed in the year 1781. Such was the situation of our affairs then, that the powers of a dictator were given to the commander-in-chief to save us from destruction. This shows the situation of the country to have been such as made it ready to embrace an actual dictator. At some future period, will not our distresses impel us to do what the Dutch have done—throw all power into the hands of a stadtholder? How infinitely more wise and eligible, than this desperate alternative, is a union with our American brethren! I feel myself so abhorrent to any thing that will dissolve our union, that I

cannot prevail with myself to assent to it directly or indirectly. If the union is to be dissolved, what step is to be taken? Shall we form a partial confederacy? or is it expected that we shall successfully apply to foreign alliance for military aid? This last measure, sir, has ruined almost every nation that has used it: so dreadful an example ought to be most cautiously avoided; for seldom has a nation recurred to the expedient of foreign succor without being ultimately crushed by that succor. We may lose our liberty and independence by this injudicious scheme of policy. Admitting it to be a scheme replete with safety, what nation shall we solicit—France? She will disdain a connection with a people in our predicament. I would trust every thing to the magnanimity of that nation; but she would despise a people who had, like us, so imprudently separated from their brethren; and, sir, were she to accede to our proposal, with what facility could she become mistress of our country! To what nation then shall we apply—to Great Britain? Nobody has as yet trusted that idea. An application to any other must be either fruitless or dangerous; to those who advocate local confederacies, and at the same time preach up for republican liberty, I answer, that their conduct is inconsistent; the defence of such partial confederacies will require such a degree of force and expense as will destroy every feature of republicanism. Give me leave to say, that I see nought but destruction in a local confederacy. With what state can we confederate but North Carolina—North Carolina, situated worse than ourselves? Consult your own reason: I beseech gentlemen most seriously to reflect on the consequences of such a confederacy: I beseech them to consider whether Virginia and North Carolina, both oppressed with debts and slaves, can defend themselves externally, or make their people happy internally. North Carolina having no strength but militia, and Virginia in the same situation, will make, I fear, but a despicable figure in history. Thus, sir, I hope that I have satisfied you that we are unsafe without a union, and that in union alone safety consists.

I come now, sir, to the great inquiry, whether the confederation be such a government as we ought to continue under; whether it be such a government as can secure the felicity of any free people. Did I believe the confederation was a good thread, which might be broken without destroying its utility entirely, I might be induced to concur in putting it together; but I am so thoroughly convinced of its incapacity to be mended or spliced, that I would sooner recur to any other expedient.

When I spoke last, I endeavored to express my sentiments concerning that system, and to apologize, (if an apology was necessary) for the conduct of its framers—that it was hastily devised, to enable us to repel a powerful enemy—that the subject was novel,

and that its inefficacy was not discovered, till requisitions came to be made by congress. In the then situation of America, a speedy remedy was necessary to ward off the danger, and this sufficiently answered that purpose; but so universally is its imbecility now known, that it is almost useless for me to exhibit it at this time. Has not Virginia, as well as every other state, acknowledged its debility by sending delegates to the general convention? The confederation is, of all things, the most unsafe, not only to trust to, in its present form, but even to amend. The object of a federal government is to remedy and strengthen the weakness of its individual branches; whether that weakness arises from situation, or any other external cause. With respect to the first, is it not a miracle that the confederation carried us through the last war? It was our unanimity, sir, that carried us through it. That system was not ultimately concluded till the year 1781—although the greatest exertions were made before that time. Then came requisitions of men and money: its defects then were immediately discovered: the quotas of men were readily sent—not so those of money. One state feigned inability; another would not comply till the rest did; and various excuses were offered; so that no money was sent into the treasury—not a requisition was fully complied with. Loans were the next measure fallen upon: upwards of eighty millions of dollars were wanting, beside the emissions of dollars, forty for one. These things show the impossibility of relying on requisitions. * * * * If the American spirit is to be depended upon, I call him to awake, to see how his Americans have been disgraced; but I have no hopes that things will be better hereafter. I fully expect things will be as they have been, and that the same derangements will produce similar miscarriages. Will the American spirit produce money or credit, unless we alter our system? Are we not in a contemptible situation—are we not the jest of other nations?

But it is insinuated by the honorable gentleman, that we want to be a grand, splendid and magnificent people: we wish not to become so: the magnificence of a royal court is not our object. We want government, sir—a government that will have stability, and give us security; for our present government is destitute of the one, and incapable of producing the other. It cannot perhaps, with propriety, be denominated a government—being void of that energy requisite to enforce its sanctions. I wish my country not to be contemptible in the eyes of foreign nations. A well-regulated community is always respected. It is the internal situation, the defects of government, that attract foreign contempt—that contempt, sir, is too often followed by subjugation. Advert to the contemptuous manner in which a shrewd politician speaks of our government. [Here Mr. Randolph quoted a passage from Lord Sheffield, the purport of which was, that Great Britain might

engross our trade on her own terms; that the imbecility and inefficacy of our general government were such, that it was impossible we could counteract her policy, however rigid or illiberal towards us her commercial regulations might be.] Reflect but a moment on our situation. Does it not invite real hostility? The conduct of the British ministry to us is the natural effect of our unnerved government. Consider the commercial regulations between us and Maryland. Is it not known to gentlemen, that this state and that have been making reprisals on each other, to obviate a repetition of which, in some degree, these regulations have been made? Can we not see, from this circumstance, the jealousy, rivalship and hatred that would subsist between them, in case this state was out of the union? They are importing states, and importing states will ever be competitors and rivals. Rhode Island and Connecticut have been on the point of war, on the subject of their paper money—congress did not attempt to interpose. When Massachusetts was distressed by the late insurrection, congress could not relieve her. Who headed that insurrection? Recollect the facility with which it was raised, and the very little ability of the ringleader, and you cannot but deplore the extreme debility of our merely nominal government; we are too despicable to be regarded by foreign nations. The defects of the confederation consisted principally in the want of power. It had nominally powers —powers on paper, which it could not use. The power of making peace and war is expressly delegated to congress; yet the power of granting passports, though within that of making peace and war, was considered by Virginia as belonging to herself. Without adequate powers vested in congress, America cannot be respectable in the eyes of other nations. Congress, sir, ought to be fully vested with power to support the union, protect the interest of the United States, maintain their commerce, and defend them from external invasions and insults, and internal insurrections; to maintain justice and promote harmony and public tranquillity among the states. A government not vested with these powers will ever be found unable to make us happy or respectable: how far the confederation is different from such a government, is known to all America. Instead of being able to cherish and protect the states, it has been unable to defend itself against the encroachments made upon it by the states: every one of them has conspired against it—Virginia as much as any. This fact could be proved by reference to actual history. I might quote the observations of an able modern author (not because he is decorated with the name of author, but because his sentiments are drawn from human nature), to prove the dangerous impolicy of withholding necessary powers from congress; but I shall at this time fatigue the house as little as possible. What are the powers of congress? They have full author-

ity to recommend what they please: this recommendatory power reduces them to the condition of poor supplicants. Consider the dignified language of the members of the American congress—May it please your high mightinesses of Virginia to pay your just proportionate quota of our national debt: we humbly supplicate, that it may please you to comply with your federal duties! We implore, we beg your obedience! Is not this, sir, a fair representation of the powers of congress? Their operations are of no validity when counteracted by the states. Their authority to recommend is a mere mockery of government.

But the amendability of the confederation seems to have great weight on the minds of some gentlemen. To what point will the amendments go? What part makes the most important figure? What part deserves to be retained? In it, one body has the legislative, executive and judicial powers; but the want of efficient powers has prevented the dangers naturally consequent on the union of these. Is this union consistent with an augmentation of their power? Will you then amend it, by taking away one of these three powers? Suppose, for instance, you only vested it with the legislative and executive powers, without any control on the judiciary, what must be the result? Are we not taught by reason, experience and governmental history, that tyranny is the natural and certain consequence of uniting these two powers, or the legislative and judicial powers exclusively, in the same body? If any one denies it, I shall pass by him as an infidel not to be reclaimed. Wherever any two of these three powers are vested in one single body, they must, at one time or other, terminate in the destruction of liberty. In the most important cases, the assent of nine states is necessary to pass a law: this is too great a restriction, and whatever good consequences it may in some cases produce, yet it will prevent energy in many other cases; it will prevent energy, which is most necessary on some emergencies, even in cases wherein the existence of the community depends on vigor and expedition. It is incompatible with that secrecy which is the life of execution and despatch. Did ever thirty or forty men retain a secret? Without secrecy no government can carry on its operations on great occasions: this is what gives that superiority in action to the government of one. If any thing were wanting to complete this farce, it would be that a resolution of the assembly of Virginia and the other legislatures, should be necessary to confirm and render of any validity the congressional acts: this would openly discover the debility of the general government to all the world. But, in fact, its imbecility is now nearly the same as if such acts were formally requisite. An act of the assembly of Virginia, controverting a resolution of congress, would certainly prevail. I therefore conclude that the confederation is too defec-

tive to deserve correction. Let us take farewell of it with reverential respect, as an old benefactor. It is gone, whether this house says so or not. It is gone, sir, by its own weakness.

I am afraid I have tired the patience of this house; but I trust you will pardon me, as I was urged by the importunity of the gentleman in calling for the reasons of laying the ground-work of this plan. It is objected by the honorable gentleman over the way (Mr. George Mason), that a republican government is impracticable in an extensive territory, and the extent of the United States is urged as a reason for the rejection of this constitution. Let us consider the definition of a republican government as laid down by a man who is highly esteemed. Montesquieu, so celebrated among politicians, says, "that a republican government is that in which the body, or only a part of the people, is possessed of the supreme power; a monarchical, that in which a single person governs, by fixed and established laws; a despotic government, that in which a single person, without law and without rule, directs every thing, by his own will and caprice." This author has not distinguished a republican government from a monarchy by the extent of its boundaries, but by the nature of its principles. He, in another place, contradistinguishes it, as a government of laws, in opposition to others, which he denominates a government of men. The empire, or government of laws, according to that phrase, is that in which the laws are made with the free will of the people; hence, then, if laws be made by the assent of the people, the government may be deemed free. When laws are made with integrity, and executed with wisdom, the question is, whether a great extent of country will tend to abridge the liberty of the people. If defensive force be necessary, in proportion to the extent of country, I conceive that, in a judiciously-constructed government, be the country ever so extensive, its inhabitants will be proportionably numerous, and able to defend it. Extent of country, in my conception, ought to be no bar to the adoption of a good government. No extent on earth seems to me too great, provided the laws be wisely made and executed. The principles of representation and responsibility may pervade a large as well as a small territory: and tyranny is as easily introduced into a small as into a large district. If it be answered, that some of the most illustrious and distinguished authors are of a contrary opinion, I reply, that authority has no weight with me, till I am convinced that not the dignity of names, but the force of reasoning, gains my assent.

I intended to have shown the nature of the powers which ought to have been given to the general government, and the reason of investing it with the power of taxation; but this would require more time than my strength or the patience of the committee would now admit of. I shall conclude with a few observations,

which come from my heart. I have labored for the continuance of the union—the rock of our salvation. I believe that as sure as there is a God in heaven, our safety, our political happiness and existence, depend on the union of the states; and that, without this union, the people of this and the other states will undergo the unspeakable calamities which discord, faction, turbulence, war and bloodshed have produced in other countries. The American spirit ought to be mixed with American pride—pride to see the union magnificently triumph. Let that glorious pride which once defied the British thunder, reanimate you again. Let it not be recorded of Americans, that, after having performed the most gallant exploits, after having overcome the most astonishing difficulties, and after having gained the admiration of the world by their incomparable valor and policy, they lost their acquired reputation, their national consequence and happiness, by their own indiscretion. Let no future historian inform posterity that they wanted wisdom and virtue to concur in any regular, efficient government. Should any writer, doomed to so disagreeable a task, feel the indignation of an honest historian, he would reprehend and recriminate our folly with equal severity and justice. Catch the present moment; seize it with avidity and eagerness; for it may be lost, never to be regained. If the union be now lost, I fear it will remain so forever. I believe gentlemen are sincere in their opposition, and actuated by pure motives; but when I maturely weigh the advantages of the union, and dreadful consequences of its dissolution; when I see safety on my right, and destruction on my left; when I behold respectability and happiness acquired by the one, but annihilated by the other,—I cannot hesitate to decide in favor of the former. I hope my weakness, from speaking so long, will apologize for my leaving this subject in so mutilated a condition. If a further explanation be desired, I shall take the liberty to enter into it more fully another time.

SPEECH OF PATRICK HENRY,

ON THE EXPEDIENCY OF ADOPTING THE

FEDERAL CONSTITUTION,

DELIVERED IN THE CONVENTION OF VIRGINIA, JUNE 7, 1788.

Mr. Chairman,

I have thought, and still think, that a full investigation of the actual situation of America ought to precede any decision on this great and important question. That government is no more than a choice among evils, is acknowledged by the most intelligent among mankind, and has been a standing maxim for ages. If it be demonstrated, that the adoption of the new plan is a little or a trifling evil, then, sir, I acknowledge that adoption ought to follow; but, sir, if this be a truth, that its adoption may entail misery on the free people of this country, I then insist, that rejection ought to follow. Gentlemen strongly urge that its adoption will be a mighty benefit to us; but, sir, I am made of such incredulous materials, that assertions and declarations do not satisfy me. I must be convinced, sir. I shall retain my infidelity on that subject till I see our liberties secured in a manner perfectly satisfactory to my understanding.

There are certain maxims, by which every wise and enlightened people will regulate their conduct. There are certain political maxims, which no free people ought ever to abandon: maxims, of which the observance is essential to the security of happiness. It is impiously irritating the avenging hand of Heaven, when a people, who are in the full enjoyment of freedom, launch out into the wide ocean of human affairs, and desert those maxims which alone can preserve liberty. Such maxims, humble as they are, are those only which can render a nation safe or formidable. Poor, little, humble republican maxims have attracted the admiration and engaged the attention of the virtuous and wise in all nations, and have stood the shock of ages. We do not now admit the validity of maxims which we once delighted in. We have since adopted maxims of a different, but more refined nature; new maxims, which tend to the prostration of republicanism.

We have one, sir, that all men are by nature free and independent, and have certain inherent rights, of which, when they enter into society, they cannot, by any compact, deprive or divest their posterity. We have a set of maxims of the same spirit, which must be beloved by every friend to liberty, to virtue, to mankind —our bill of rights contains those admirable maxims.

Now, sir, I say, let us consider, whether the picture given of American affairs ought to drive us from those beloved maxims.

The honorable gentleman (Mr. Randolph) has said, that it is too late in the day for us to reject this new plan. That system which was once execrated by the honorable member, must now be adopted, let its defects be ever so glaring. That honorable member will not accuse me of want of candor, when I cast in my mind what he has given the public,* and compare it to what has happened since. It seems to me very strange and unaccountable, that what was the object of his execration should now receive his encomiums. Something extraordinary must have operated so great a change in his opinion. It is too late in the day! Gentlemen must excuse me, if they should declare, again and again, that it is too late, and I should think differently. I never can believe, sir, that it is too late to save all that is precious. If it be proper, and independently of every external consideration, wisely constructed, let us receive it; but, sir, shall its adoption, by eight states, induce us to receive it, if it be replete with the most dangerous defects? They urge, that subsequent amendments are safer than previous amendments, and that they will answer the same ends. At present, we have our liberties and privileges in our own hands. Let us not relinquish them. Let us not adopt this system till we see them secured. There is some small possibility, that should we follow the conduct of Massachusetts, amendments might be obtained. There is a small possibility of amending any government; but, sir, shall we abandon our inestimable rights, and rest their security on a mere possibility? The gentleman fears the loss of the union. If eight states have ratified it unamended, and we should rashly imitate their precipitate example, do we not thereby disunite from several other states? Shall those who have risked their lives for the sake of union be at once thrown out of it? If it be amended, every state will accede to it; but by an imprudent adoption in its defective and dangerous state, a schism must inevitably be the consequence; I can never, therefore, consent to hazard our unalienable rights on an absolute uncertainty. You are told there is no peace, although you fondly flatter yourselves that all is peace—no peace; a general cry and alarm in the country; commerce, riches and wealth vanished;

* Mr. Randolph had addressed a letter on that subject to the speaker of the house of delegates.

citizens going to seek comforts in other parts of the world; laws insulted: many instances of tyrannical legislation. These things, sir, are new to me. He has made the discovery. As to the administration of justice, I believe that failures in commerce, &c. cannot be attributed to it. My age enables me to recollect its progress under the old government. I can justify it by saying, that it continues in the same manner in this state, as it did under the former government. As to other parts of the continent, I refer that to other gentlemen. As to the ability of those who administer it, I believe they would not suffer by a comparison with those who administered it under the royal authority. Where is the cause of complaint if the wealthy go away? Is this, added to the other circumstances, of such enormity, and does it bring such danger over this commonwealth, as to warrant so important, and so awful a change, in so precipitate a manner? As to insults offered to the laws, I know of none. In this respect, I believe this commonwealth would not suffer by a comparison with the former government. The laws are as well executed, and as patiently acquiesced in, as they were under the royal administration. Compare the situation of the country; compare that of our citizens to what they were then, and decide whether persons and property are not as safe and secure as they were at that time. Is there a man in this commonwealth, whose person can be insulted with impunity? Cannot redress be had here for personal insults or injuries, as well as in any part of the world; as well as in those countries where aristocrats and monarchs triumph and reign? Is not the protection of property in full operation here? The contrary cannot with truth be charged on this commonwealth. Those severe charges which are exhibited against it, appear to me totally groundless. On a fair investigation, we shall be found to be surrounded by no real dangers. We have the animating fortitude and persevering alacrity of republican men, to carry us through misfortunes and calamities. 'Tis the fortune of a republic to be able to withstand the stormy ocean of human vicissitudes. I know of no danger awaiting us. Public and private security are to be found here in the highest degree. Sir, it is the fortune of a free people not to be intimidated by imaginary dangers. Fear is the passion of slaves. Our political and natural hemispheres are now equally tranquil. Let us recollect the awful magnitude of the subject of our deliberation. Let us consider the latent consequences of an erroneous decision, and let not our minds be led away by unfair misrepresentations and uncandid suggestions. There have been many instances of uncommon lenity and temperance used in the exercise of power in this commonwealth. I could call your recollection to many that happened during the war and since; but every gentleman here must be apprized of them.

The honorable member has given you an elaborate account of what he judges tyrannical legislation, and an *ex post facto* law in the case of Josiah Phillips. He has misrepresented the facts. That man was not executed by a tyrannical stroke of power; nor was he a Socrates. He was a fugitive murderer and an outlaw; a man who commanded an infamous banditti, at a time when the war was at the most perilous stage. He committed the most cruel and shocking barbarities. He was an enemy to the human name. Those who declare war against the human race may be struck out of existence as soon as they are apprehended. He was not executed according to those beautiful legal ceremonies, which are pointed out by the laws, in criminal cases. The enormity of his crimes did not entitle him to it. I am truly a friend to legal forms and methods; but, sir, the occasion warranted the measure. A pirate, an outlaw, or a common enemy to all mankind, may be put to death at any time. It is justified by the laws of nature and nations.

The honorable member tells us, then, that there are burnings and discontents in the hearts of our citizens in general, and that they are dissatisfied with their government. I have no doubt the honorable member believes this to be the case, because he says so. But I have the comfortable assurance, that it is a certain fact that it is not so. The middle and lower ranks of people have not those illumined ideas, which the well-born are so happily possessed of: they cannot so readily perceive latent objects. The microscopic eyes of modern statesmen can see abundance of defects in old systems; and their illumined imaginations discover the necessity of a change. They are captivated by the parade of the number ten; the charms of the ten miles square. Sir, I fear this change will ultimately lead to our ruin. My fears are not the force of imagination; they are but too well founded. I tremble for my country; but, sir, I trust, I rely, and I am confident, that this political speculation has not taken so strong a hold of men's minds, as some would make us believe.

The dangers which may arise from our geographical situation will be more properly considered a while hence. At present, what may be surmised on the subject, with respect to the adjacent states, is merely visionary. Strength, sir, is a relative term. When I reflect on the natural force of those nations that might be induced to attack us, and consider the difficulty of the attempt and uncertainty of the success, and compare thereto the relative strength of our country, I say that we are strong. We have no cause to fear from that quarter; we have nothing to dread from our neighboring states. The superiority of our cause would give us an advantage over them, were they so unfriendly or rash as to attack us. As to that part of the community, which the honor-

able gentleman spoke of as in danger of being separated from us, what incitement or inducement could its inhabitants have to wish such an event? It is a matter of doubt whether they would derive any advantage to themselves, or be any loss to us by such a separation. Time has been, and may yet come, when they will find it their advantage and true interest to be united with us. There is no danger of a dismemberment of our country, unless a constitution be adopted which will enable the government to plant enemies on our backs. By the confederation, the rights of territory are secured. No treaty can be made without the consent of nine states. While the consent of nine states is necessary to the cession of territory, you are safe. If it be put in the power of a less number, you will most infallibly lose the Mississippi. As long as we can preserve our unalienable rights, we are in safety. This new constitution will involve in its operation the loss of the navigation of that valuable river. The honorable gentleman cannot be ignorant of the Spanish transactions. A treaty had been nearly entered into with Spain, to relinquish that navigation, and that reliquishment would absolutely have taken place, had the consent of seven states been sufficient. The honorable gentleman told us then, that eight states having adopted this system, we cannot suppose they will recede on our account. I know not what they may do; but this I know, that a people of infinitely less importance than those of Virginia, stood the terror of war. Vermont, sir, withstood the terror of thirteen states. Maryland did not accede to the confederation till the year 1781. These two states, feeble as they are, comparatively to us, were not afraid of the whole union. Did either of these states perish? No, sir, they were admitted freely into the union. Will not Virginia then be admitted? I flatter myself that those states who have ratified the new plan of government will open their arms and cheerfully receive us, although we should propose certain amendments as the conditions on which we would ratify it. During the late war, all the states were in pursuit of the same object. To obtain that object, they made the most strenuous exertions. They did not suffer trivial considerations to impede its acquisition. Give me leave to say, that if the smallest states in the union were admitted into it, after having unreasonably procrastinated their accession, the greatest and most mighty state in the union will be easily admitted, when her reluctance to an immediate accession to this system is founded on the most reasonable grounds. When I call this the most mighty state in the union, do I not speak the truth? Does not Virginia surpass every state in the union, in number of inhabitants, extent of territory, felicity of position, and affluence and wealth? Some infatuation hangs over men's minds, that they will inconsiderately precipitate into measures the most important, and give not

a moment's deliberation to others, nor pay any respect to their opinions. Is this federalism? Are these the beloved effects of the federal spirit, that its votaries will never accede to the just propositions of others? Sir, were there nothing objectionable in it but that, I would vote against it. I desire to have nothing to do with such men as will obstinately refuse to change their opinions. Are our opinions not to be regarded? I hope that you will recollect, that you are going to join with men who will pay no respect even to this state.

Switzerland consists of thirteen cantons expressly confederated for national defence. They have stood the shock of four hundred years: that country has enjoyed internal tranquillity most of that long period. Their dissensions have been, comparatively to those of other countries, very few. What has passed in the neighboring countries? Wars, dissensions, and intrigues—Germany involved in the most deplorable civil war thirty years successively, continually convulsed with intestine divisions, and harassed by foreign wars—France with her mighty monarchy perpetually at war. Compare the peasants of Switzerland with those of any other mighty nation: you will find them far more happy; for one civil war among them, there have been five or six among other nations: their attachment to their country, and to freedom, their resolute intrepidity in their defence, the consequent security and happiness which they have enjoyed, and the respect and awe which these things produced in their bordering nations, have signalized those republicans. Their valor, sir, has been active; every thing that sets in motion the springs of the human heart, engaged them to the protection of their inestimable privileges. They have not only secured their own liberty, but have been the arbiters of the fate of other people. Here, sir, contemplate the triumph of republican governments over the pride of monarchy. I acknowledge, sir, that the necessity of national defence has prevailed in invigorating their councils and arms, and has been, in a considerable degree, the means of keeping these honest people together. But, sir, they have had wisdom enough to keep together and render themselves formidable. Their heroism is proverbial. They would heroically fight for their government and their laws. One of the illumined sons of these times would not fight for those objects. Those virtuous and simple people have not a mighty and splendid president, nor enormously expensive navies and armies to support. No, sir, those brave republicans have acquired their reputation no less by their undaunted intrepidity, than by the wisdom of their frugal and economical policy. Let us follow their example, and be equally happy. The honorable member advises us to adopt a measure which will destroy our bill of rights; for, after hearing his picture of nations, and his reasons for abandoning all the pow-

ers retained to the states by the confederation, I am more firmly persuaded of the impropriety of adopting this new plan in its present shape.

I had doubts of the power of those who went to the convention; but now we are possessed of it, let us examine it. When we trusted the great object of revising the confederation to the greatest, the best and most enlightened of our citizens, we thought their deliberations would have been solely confined to that revision. Instead of this, a new system, totally different in its nature, and vesting the most extensive powers in congress, is presented. Will the ten men you are to send to congress be more worthy than those seven were? If power grew so rapidly in their hands, what may it not do in the hands of others? If those who go from this state will find power accompanied with temptation, our situation must be truly critical. When about forming a government, if we mistake the principles, or commit any other error, the very circumstance promises that power will be abused. The greatest caution and circumspection are therefore necessary; nor does this proposed system, in its investigation here, deserve the least charity.

The honorable member says, that the national government is without energy. I perfectly agree with him; and when he cried out union, I agreed with him; but I tell him not to mistake the end for the means. The end is union; the most capital means, I suppose, are an army and navy: on a supposition, I will acknowledge this; still the bare act of agreeing to that paper, though it may have an amazing influence, will not pay our millions. There must be things to pay debts. What these things are, or how they are to be produced, must be determined by our political wisdom and economy.

The honorable gentleman alleges, that previous amendments will prevent the junction of our riches from producing great profits and emoluments, (which would enable us to to pay our public debts), by excluding us from the union. I believe, sir, that a previous ratification of a system notoriously and confessedly defective, will endanger our riches; our liberty; our all. Its defects are acknowledged; they cannot be denied. The reason offered by the honorable gentleman for adopting this defective system, is the adoption by eight states. I say, sir, that, if we present nothing but what is reasonable in the shape of amendments, they will receive us. Union is as necessary for them as for us. Will they then be so unreasonable as not to join us? If such be their disposition, I am happy to know it in time.

The honorable member then observed, that nations will expend millions for commercial advantages; that is, they will deprive you of every advantage if they can. Apply this another way. Their

cheaper way, instead of laying out millions in making war upon you, will be to corrupt your senators. I know that if they be not above all price, they may make a sacrifice of our commercial interests. They may advise your president to make a treaty that will not only sacrifice all your commercial interests, but throw prostrate your bill of rights. Does he fear that their ships will outnumber ours on the ocean, or that nations, whose interests come in contrast with ours, in the progress of their guilt, will perpetrate the vilest expedients to exclude us from a participation in commercial advantages? Does he advise us, in order to avoid this evil, to adopt a constitution which will enable such nations to obtain their ends by the more easy mode of contaminating the principles of our senators? Sir, if our senators will not be corrupted, it will be because they will be good men, and not because the constitution provides against corruption; for there is no real check secured in it, and the most abandoned and profligate acts may with impunity be committed by them.

With respect to Maryland, what danger from thence? I know none. I have not heard of any hostility premeditated or committed. Nine tenths of the people have not heard of it. Those who are so happy as to be illumined, have not informed their fellow-citizens of it. I am so valiant as to say, that no danger can come from that source, sufficient to make me abandon my republican principles. The honorable gentleman ought to have recollected, that there were no tyrants in America, as there are in Europe: the citizens of republican borders are only terrible to tyrants: instead of being dangerous to one another, they mutually support one another's liberties. We might be confederated with the adopting states, without ratifying this system. No form of government renders a people more formidable. A confederacy of states joined together becomes strong as the United Netherlands. The government of Holland (execrated as it is) proves that the present confederation is adequate to every purpose of human association. There are seven provinces confederated together for a long time, containing numerous opulent cities, and many of the finest ports in the world. The recollection of the situation of that country would make me execrate monarchy. The singular felicity and success of that people are unparalleled: freedom has done miracles there in reclaiming land from the ocean. It is the richest spot on the face of the globe. Have they no men or money? Have they no fleets or armies? Have they no arts or sciences among them? How did they repel the attacks of the greatest nations in the world? How have they acquired their amazing influence and power? Did they consolidate government, to effect these purposes, as we do? No, sir; they have triumphed over every obstacle and difficulty, and have arrived at the summit of political feli-

city, and of uncommon opulence, by means of a confederacy; that very government which gentlemen affect to despise. They have, sir, avoided a consolidation as the greatest of evils. They have lately, it is true, made one advance to that fatal progression. This misfortune burst on them by iniquity and artifice. That stadtholder, that executive magistrate, contrived it, in conjunction with other European nations. It was not the choice of the people. Was it owing to his energy that this happened? If two provinces have paid nothing, what have not the rest done? And have not these two provinces made other exertions? Ought they, to avoid this inconvenience, to have consolidated their different states, and have a ten miles square? Compare that little spot, nurtured by liberty, with the fairest country in the world. Does not Holland possess a powerful navy and army, and a full treasury? They did not acquire these by debasing the principles and trampling on the rights of their citizens. Sir, they acquired these by their industry, economy, and by the freedom of their government. Their commerce is the most extensive in Europe: their credit is unequalled; their felicity will be an eternal monument of the blessings of liberty; every nation in Europe is taught by them what they are, and what they ought to be. The contrast between those nations and this happy people is the most splendid spectacle for republicans; the greatest cause of exultation and triumph to the sons of freedom. While other nations, precipitated by the rage of ambition or folly, have, in the pursuit of the most magnificent projects, rivetted the fetters of bondage on themselves and their descendants, these republicans have secured their political happiness and freedom. Where is there a nation to be compared to them? Where is there now, or where was there ever a nation, of so small a territory, and so few in number, so powerful, so wealthy, so happy? What is the cause of this superiority? Liberty, sir; the freedom of their government. Though they are now unhappily in some degree consolidated, yet they have my acclamations, when put in contrast with those millions of their fellow-men who lived and died slaves. The dangers of a consolidation ought to be guarded against in this country. I shall exert my poor talents to ward them off. Dangers are to be apprehended in whatever manner we proceed; but those of a consolidation are the most destructive. Let us leave no expedient untried to secure happiness; but whatever be our decision, I am consoled, if American liberty will remain entire, only for half a century; and I trust that mankind in general, and our posterity in particular, will be compensated for every anxiety we now feel.

Another gentleman tells us, that no incovenience will result from the exercise of the power of taxation by the general govern-

ment; that two shillings out of ten may be saved by the impost; and that four shillings may be paid to the federal collector, and four to the state collector. A change of government will not pay money. If from the probable amount of the impost, you take the enormous and extravagant expenses, which will certainly attend the support of this great consolidated government, I believe you will find no reduction of the public burdens by this new system. The splendid maintenance of the president and of the members of both houses; and the salaries and fees of the swarm of officers and dependants on the government, will cost this continent immense sums. Double sets of collectors will double the expense. To these are to be added oppressive excisemen and custom-house officers. Sir, the people have an hereditary hatred to custom-house officers. The experience of the mother country leads me to detest them. They have introduced their baneful influence into the administration, and destroyed one of the most beautiful systems that ever the world saw. Our forefathers enjoyed liberty there, while that system was in its purity; but it is now contaminated by influence of every kind.

The style of the government (we the people) was introduced, perhaps, to recommend it to the people at large; to those citizens who are to be levelled and degraded to the lowest degree, who are likened to a herd, and who, by the operation of this blessed system, are to be transformed from respectable, independent citizens, to abject, dependent subjects or slaves. The honorable gentleman has anticipated what we are to be reduced to, by degradingly assimilating our citizens to a herd.

[Here Mr. Randolph rose, and declared that he did not use that word to excite any odium, but merely to convey the idea of a multitude.]

Mr. Henry replied, that it made a deep impression on his mind, and that he verily believed, that system would operate as he had said. [He then continued]—I will exchange that abominable word for requisitions; requisitions, which gentlemen affect to despise, have nothing degrading in them. On this depends our political prosperity. I never will give up that darling word, requisitions; my country may give it up; a majority may wrest it from me, but I will never give it up till in my grave. Requisitions are attended with one singular advantage. They are attended by deliberation. They secure to the states the benefit of correcting oppressive errors. If our assembly thought requisitions erroneous, if they thought the demand was too great, they might at least supplicate congress to reconsider, that it was a little too much. The power of direct taxation was called by the honorable gentleman the soul of the government: another gentleman called it the lungs of the government. We all agree, that it is the most

important part of the body politic. If the power of raising money be necessary for the general government, it is no less so for the states. If money be the vitals of congress, is it not precious for those individuals from whom it is to be taken? Must I give my soul, my lungs, to congress? Congress must have our souls; the state must have our souls. This is dishonorable and disgraceful. These two coördinate, interfering, unlimited powers of harassing the community, are unexampled—unprecedented in history: they are the visionary projects of modern politicians: tell me not of imaginary means, but of reality: this political solecism will never tend to the benefit of the community. It will be as oppressive in practice as it is absurd in theory. If you part from this, which the honorable gentleman tells you is the soul of congress, you will be inevitably ruined. I tell you, they shall not have the soul of Virginia. They tell us, that one collector may collect the federal and state taxes. The general government being paramount to the state legislatures, if the sheriff is to collect for both—his right hand for the congress, his left for the state—his right hand being paramount over the left, his collections will go to congress. We will have the rest. Deficiencies in collections will always operate against the states. Congress being the paramount, supreme power, must not be disappointed. Thus congress will have an unlimited, unbounded command over the soul of this commonwealth. After satisfying their uncontrolled demands, what can be left for the states? Not a sufficiency even to defray the expense of their internal administration. They must therefore glide imperceptibly and gradually out of existence. This, sir, must naturally terminate in a consolidation. If this will do for other people, it never will do for me.

If we are to have one representative for every thirty thousand souls, it must be by implication. The constitution does not positively secure it. Even say it is a natural implication, why not give us a right to that proportion in express terms, in language that could not admit of evasions or subterfuges? If they can use implication for us, they can also use implication against us. We are giving power; they are getting power: judge, then, on which side the implication will be used. When we once put it in their option to assume constructive power, danger will follow. Trial by jury, and liberty of the press, are also on this foundation of implication. If they encroach on these rights, and you give your implication for a plea, you are cast; for they will be justified by the last part of it, which gives them full power "to make all laws which shall be necessary and proper to carry their powers into execution." Implication is dangerous, because it is unbounded: if it be admitted at all, and no limits be prescribed, it admits of the utmost extension. They say, that every thing that is not

given is retained. The reverse of the proposition is true by implication. They do not carry their implication so far when they speak of the general welfare. No implication when the sweeping clause comes. Implication is only necessary when the existence of privileges is in dispute. The existence of powers is sufficiently established. If we trust our dearest rights to implication, we shall be in a very unhappy situation.

Implication in England has been a source of dissension. There has been a war of implication between the king and people. For one hundred years did the mother country struggle under the uncertainty of implication. The people insisted that their rights were implied: the monarch denied the doctrine. Their bill of rights in some degree terminated the dispute. By a bold implication, they said they had a right to bind us in all cases whatsoever. This constructive power we opposed, and successfully. Thirteen or fourteen years ago, the most important thing that could be thought of, was to exclude the possibility of construction and implication. These, sir, were then deemed perilous. The first thing that was thought of, was a bill of rights. We were not satisfied with your constructive argumentative rights.

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[Mr. Henry on the 9th resumed the speech which had been interrupted by an adjournment.] I find myself again, Mr. Chairman, constrained to trespass on the patience of this committee. I wish there was a prospect of union in our sentiments; so much time would not then be taken up. But when I review the magnitude of the subject under consideration, and of the dangers which appear to me in this new plan of government, and compare thereto my poor abilities to secure our rights, it will take much more time, in my poor, unconnected way, to traverse the objectionable parts of it; there are friends here who will be abler than myself to make good these objections which to us appear well founded. If we recollect, on last Saturday, I made some observations on some of those dangers, which these gentlemen would fain persuade us hang over the citizens of this commonwealth, to induce us to change the government, and adopt the new plan. Unless there be great and awful dangers, the change is dangerous, and the experiment ought not to be made. In estimating the magnitude of these dangers, we are obliged to take a most serious view of them, to feel them, to handle them, and to be familiar with them. It is not sufficient to feign mere imaginary dangers: there must be a dreadful reality. The great question between us is, Does that reality exist? These dangers are partially attributed to bad laws, execrated by the community at large. It is said the people wish to change the government. I should be happy to meet them on that ground. Should the people wish to change it, we should be

innocent of the dangers. It is a fact that the people do not wish to change their government. How am I to prove it? It will rest on my bare assertion, unless supported by an internal conviction in men's breasts. My poor say-so is a mere non-entity. But, sir, I am persuaded that four fifths of the people of Virginia must have amendments to the new plan, to reconcile them to a change of their government. Our assertions form but a slippery foundation for the people to rest their political salvation on. No government can flourish unless it be founded on the affection of the people. Unless gentlemen can be sure, that this new system is founded on that ground, they ought to stop their career.

I will not repeat what the gentlemen say, but will mention one thing. There is a dispute between us and the Spaniards, about the right of navigating the Mississippi. This dispute has sprung from the federal government. I wish a great deal to be said on this subject. I wish to know the origin and progress of the business, as it would probably unfold great dangers. In my opinion, the preservation of that river calls for our most serious consideration. It has been agitated in congress. Seven states have voted so as that it is known to the Spaniards, that, under our existing system, the Mississippi shall be taken from them. Seven states wished to relinquish this river to them. The six Southern States opposed it. Seven states not being sufficient to convey it away, it remains now ours. If I am wrong, there are a number on this floor who can contradict the facts; I will readily retract. This new government, I conceive, will enable those states, who have already discovered their inclination that way, to give away this river. Will the honorable gentleman advise us to relinquish this inestimable navigation, and place formidable enemies to our backs? This weak, this poor confederation cannot secure us. We are resolved to take shelter under the shield of federal authority in America. The southern parts of America have been protected by that weakness so much execrated. I hope this will be explained. I was not in congress when these transactions took place. I may not have stated every fact. I may have misrepresented matters. I hope to be fully acquainted with every thing relative to the subject. Let us hear how the great and important right of navigating that river has been attended to; and whether I am mistaken in my opinion, that federal measures will lose it to us forever. If a bare majority of congress can make laws, the situation of our western citizens is dreadful.

We are threatened with danger for the non-payment of the debt due to France. We have information from an illustrious citizen of Virginia, who is now in Paris, which disproves the suggestions of such danger. This citizen has not been in the airy regions of theoretic speculation; our ambassador is this worthy

citizen. The ambassador of the United States of America is not so despised as the honorable gentleman would make us believe. A servant of a republic is as much respected as that of a monarch. The honorable gentleman tells us, that hostile fleets are to be sent to make reprisals upon us; our ambassador tells you that the king of France has taken into consideration, to enter into commercial regulations on reciprocal terms with us, which will be of peculiar advantage to us. Does this look like hostility? I might go further; I might say, not from public authority, but good information, that his opinion is, that you reject this government. His character and abilities are in the highest estimation; he is well acquainted, in every respect, with this country; equally so with the policy of the European nations. This illustrious citizen advises you to reject this government, till it be amended. His sentiments coincide entirely with ours. His attachment to, and services done for, this country are well known. At a great distance from us, he remembers and studies our happiness. Living amidst splendor and dissipation, he thinks yet of bills of rights—thinks of those little despised things called maxims. Let us follow the sage advice of this common friend of our happiness. It is little usual for nations to send armies to collect debts. The house of Bourbon, that great friend of America, will never attack her for the unwilling delay of payment. Give me leave to say that Europe is too much engaged about objects of greater importance to attend to us. On that great theatre of the world, the little American matters vanish. Do you believe, that the mighty monarch of France, beholding the greatest scenes that ever engaged the attention of a prince of that country, will divert himself from those important objects, and now call for a settlement of accounts with America? This proceeding is not warranted by good sense. The friendly disposition to us, and the actual situation of France, render the idea of danger from that quarter absurd. Would this countryman of ours be fond of advising us to a measure which he knew to be dangerous—and can it be reasonably supposed, that he can be ignorant of any premeditated hostility against this country? The honorable gentleman may suspect the account; but I will do our friend the justice to say that he would warn us of any danger from France.

Do you suppose the Spanish monarch will risk a contest with the United States, when his feeble colonies are exposed to them? Every advance the people here make to the westward, makes him tremble for Mexico and Peru. Despised as we are among ourselves under our present government, we are terrible to that monarchy. If this be not a fact, it is generally said so.

We are in the next place frightened by dangers from Holland. We must change our government to escape the wrath of that republic. Holland groans under a government like this new one.

A stadtholder, sir, a Dutch president, has brought on that country miseries which will not permit them to collect debts with fleets or armies. The wife of a Dutch stadtholder brought one hundred thousand men against that republic, and prostrated all opposition. This president will bring miseries on us like those of Holland. Such is the condition of European affairs, that it would be unsafe for them to send fleets or armies to collect debts. But here, sir, they make a transition to objects of another kind. We are presented with dangers of a very uncommon nature. I am not acquainted with the arts of painting. Some gentlemen have a peculiar talent for them. They are practised with great ingenuity on this occasion. As a counterpart to what we have already been intimidated with, we are told, that some lands have been sold which cannot be found; and that this will bring war on this country. Here the picture will not stand examination. Can it be supposed, that if a few land speculators and jobbers have violated the principles of probity, that it will involve this country in war? Is there no redress to be otherwise obtained, even admitting the delinquents and sufferers to be numerous? When gentlemen are thus driven to produce imaginary dangers, to induce this convention to assent to this change, I am sure it will not be uncandid to say, that the change itself is really dangerous. Then the Maryland compact is broken, and will produce perilous consequences. I see nothing very terrible in this. The adoption of the new system will not remove the evil. Will they forfeit good neighborhood with us, because the compact is broken? Then the disputes concerning the Carolina line are to involve us in dangers. A strip of land running from the westward of the Allegany to the Mississippi, is the subject of this pretended dispute. I do not know the length or breadth of this disputed spot. Have they not regularly confirmed our right to it, and relinquished all claims to it? I can venture to pledge that the people of Carolina will never disturb us. The strength of this despised country has settled an immense tract of country to the westward. Give me leave to remark, that the honorable gentleman's observations on our frontiers, north and south, east and west, are all inaccurate.

Will Maryland fight against this country for seeking amendments? Were there not sixty members in that state who went in quest of amendments? Sixty against eight or ten were in favor of pursuing amendments. Shall they fight us for doing what they themselves have done? They have sought amendments, but differently from the manner in which I wish amendments to be got. The honorable gentleman may plume himself on this difference. Will they fight us for this dissimilarity? Will they fight us for seeking the object they seek themselves? When they do, it will be time for me to hold my peace. Then, sir, comes Pennsylva-

nia, in terrible array. Pennsylvania is to go in conflict with Virginia. Pennsylvania has been a good neighbor heretofore. She is federal—something terrible: Virginia cannot look her in the face. If we sufficiently attend to the actual situation of things, we will conclude that Pennsylvania will do what we do. A number of that country are strongly opposed to it. Many of them have lately been convinced of its fatal tendency. They are disgorged of their federalism. I beseech you to bring this matter home to yourselves. Was there a possibility for the people of that state to know the reasons of adopting that system, or understand its principles, in so very short a period after its formation? This is the middle of June. Those transactions happened last August. The matter was circulated by every effort of industry, and the most precipitate measures taken to hurry the people into an adoption. Yet now, after having had several months since to investigate it, a very large part of this community—a very great majority of this community do not understand it. I have heard gentlemen of respectable abilities declare that they did not understand it. If, after great pains, men of high learning, who have received the aid of a regular education, do not understand it; if the people of Pennsylvania understood it in so short a time, it must have been from intuitive understandings and uncommon acuteness of perception. Place yourselves in their situation; would you fight your neighbors for considering this great and awful matter? If you wish for real amendments, such as the security of the trial by jury, it will reach the hearts of the people of that state. Whatever may be the disposition of the aristocratical politicians of that country, I know there are friends of human nature in that state. If so, they will never make war on those who make professions of what they are attached to themselves.

As to the danger arising from borderers, it is mutual and reciprocal. If it be dangerous for Virginia, it is equally so for them. It will be their true interest to be united with us. The danger of our being their enemies, will be a prevailing argument in our favor. It will be as powerful to admit us into the union, as a vote of adoption, without previous amendments, could possibly be.

Then the savage Indians are to destroy us. We cannot look them in the face. The danger is here divided; they are as terrible to the other states as to us; but, sir, it is well known that we have nothing to fear from them. Our back settlers are considerably stronger than they, and their superiority increases daily. Suppose the states to be confederated all around us, what we want in number we shall make up otherwise. Our compact situation and natural strength will secure us. But to avoid all dangers, we must take shelter under the federal government. Nothing gives a decided importance but this federal government. You will sip

sorrow, according to the vulgar phrase, if you want any other security than the laws of Virginia.

A number of characters of the greatest eminence in this country object to this government for its consolidating tendency. This is not imaginary. It is a formidable reality. If consolidation proves to be as mischievous to this country as it has been to other countries, what will the poor inhabitants of this country do? This government will operate like an ambuscade. It will destroy the state governments and swallow up the liberties of the people, without giving them previous notice. If gentlemen are willing to run the hazard, let them run it; but I shall exculpate myself by my opposition and monitory warnings within these walls. But then comes paper money. We are at peace on this subject. Though this is a thing which that mighty federal convention had no business with, yet I acknowledge that paper money would be the bane of this country. I detest it. Nothing can justify a people in resorting to it, but extreme necessity. It is at rest, however, in this commonwealth. It is no longer solicited or advocated.

Sir, I ask you and every other gentleman who hears me, if he can restrain his indignation at a system which takes from the state legislatures the care and preservation of the interests of the people; one hundred and eighty representatives, the choice of the people of Virginia, cannot be trusted with their interests. They are a mobbish, suspected herd. This country has not virtue enough to manage its own internal interests. These must be referred to the chosen ten. If we cannot be trusted with the private contracts of the citizens, we must be depraved indeed. If he can prove, that, by one uniform system of abandoned principles, the legislature has betrayed the rights of the people, then let us seek another shelter. So degrading an indignity—so flagrant an outrage on the states—so vile a suspicion—is humiliating to my mind and many others.

Will the adoption of this new plan pay our debts? This, sir, is a plain question. It is inferred, that our grievances are to be redressed, and the evils of the existing system to be removed by the new constitution. Let me inform the honorable gentleman, that no nation ever paid its debts by a change of government, without the aid of industry. You never will pay your debts but by a radical change of domestic economy. At present you buy too much, and make too little to pay. Will this new system promote manufactures, industry and frugality? If, instead of this, your hopes and designs will be disappointed, you relinquish a great deal, and hazard infinitely more for nothing. Will it enhance the value of your lands? Will it lessen your burdens? Will your looms and wheels go to work by the act of adoption? If it will,

in its consequences, produce these things, it will consequently produce a reform, and enable you to pay your debts. Gentlemen must prove it. I am a skeptic—an infidel on this point. I cannot conceive that it will have these happy consequences. I cannot confide in assertions and allegations. The evils that attend us lie in extravagance and want of industry, and can only be removed by assiduity and economy. Perhaps we shall be told by gentlemen that these things will happen, because the administration is to be taken from us and placed in the hands of the luminous few, who will pay different attention, and be more studiously careful than we can be supposed to be.

With respect to the economical operation of the new government, I will only remark that the national expenses will be increased—if not doubled, it will approach it very near. I might, without incurring the imputation of illiberality or extravagance, say, that the expense will be multiplied tenfold. I might tell you of a numerous standing army ; a great, powerful navy ; a long and rapacious train of officers and dependants, independent of the president, senators and representatives, whose compensations are without limitation. How are our debts to be discharged unless the taxes are increased, when the expenses of government are so greatly augmented? The defects of this system are so numerous and palpable, and so many states object to it, that no union can be expected unless it be amended. Let us take a review of the facts. New Hampshire and Rhode Island have rejected it. They have refused to become federal. New York and North Carolina are reported to be strongly against it. From high authority, give me leave to tell, that New York is in high opposition. Will any gentleman say that North Carolina is not against it? They may say so ; but I say that the adoption of it in those two states amounts to entire uncertainty. The system must be amended before these four states will accede to it. Besides, there are several other states who are dissatisfied, and wish alterations. Massachusetts has, in decided terms, proposed amendments ; but by her previous ratification, has put the cart before the horse. Maryland instituted a committee to propose amendments. It then appears that two states have actually refused to adopt—two of those who have adopted have a desire of amending. And there is a probability of its being rejected by New York and North Carolina. The other states have acceded without proposing amendments. With respect to them, local circumstances have, in my judgment, operated to produce its unconditional, instantaneous adoption. The locality of the seat of government, ten miles square, and the seat of justice, with all their concomitant emoluments, operated so powerfully with the first adopting state, that it was adopted without taking time to reflect. We are told that numerous advantages

will result from the concentration of the wealth and grandeur of the United States in one happy spot, to those who will reside in or near it. Prospects of profit and emoluments have a powerful influence on the human mind. We, sir, have no such projects as that of a grand seat of government for thirteen states, and perhaps for one hundred states hereafter. Connecticut and New Jersey have their localities also. New York lies between them. They have no ports, and are not importing states. New York is an importing state, and, taking advantage of its situation, makes them pay duties for all the articles of their consumption: thus, these two states, being obliged to import all they want, through the medium of New York, pay the particular taxes of that state. I know the force and effect of reasoning of this sort by experience. When the impost was proposed some years ago, those states which were not importing states readily agreed to concede to congress the power of laying an impost on all goods imported for the use of the continental treasury. Connecticut and New Jersey, therefore, are influenced by advantages of trade in their adoption. The amounts of all imposts are to go into one common treasury. This favors adoption by the non-importing states; as they participate in the profits which were before exclusively enjoyed by the importing states. Notwithstanding this obvious advantage to Connecticut, there is a formidable minority there against it. After taking this general review of American affairs, as respecting federalism, will the honorable gentleman tell me that he can expect union in America? When so many states are pointedly against it; when two adopting states have pointed out, in express terms, their dissatisfaction as it stands; and when there is so respectable a body of men discontented in every state, can the honorable gentleman promise himself harmony, of which he is so fond? If he can, I cannot. To me it appears unequivocally clear, that we shall not have that harmony. If it appears to the other states, that our aversion is founded on just grounds, will they not be willing to indulge us? If disunion will really result from Virginia's proposing amendments, will they not wish the reëstablishment of the union, and admit us, if not on such terms as we prescribe, yet on advantageous terms? Is not union as essential to their happiness as to ours? Sir, without a radical alteration, the states will never be embraced in one federal pale. If you attempt to force it down men's throats, and call it union, dreadful consequences must follow.

He has said a great deal about disunion and the dangers that are to arise from it. When we are on the subject of union and dangers, let me ask, How will his present doctrine hold with what has happened? Is it consistent with that noble and disinterested conduct which he displayed on a former occasion? Did he not tell us that he withheld his signature? Where then were the dangers

which now appear to him so formidable? He saw all America eagerly confiding that the result of their deliberations would remove their distresses. He saw all America acting under the impulses of hope, expectation and anxiety, arising from their situation and their partiality for the members of that convention: yet his enlightened mind, knowing that system to be defective, magnanimously and nobly refused its approbation. He was not led by the illumined—the illustrious few. He was actuated by the dictates of his own judgment; and a better judgment than I can form. He did not stand out of the way of information. He must have been possessed of every intelligence. What alteration have a few months brought about? The internal difference between right and wrong does not fluctuate. It is immutable. I ask this question as a public man, and out of no particular view. I wish, as such, to consult every source of information, to form my judgment on so awful a question. I had the highest respect for the honorable gentleman's abilities. I considered his opinion as a great authority. He taught me, sir, in despite of the approbation of that great federal convention, to doubt of the propriety of that system. When I found my honorable friend in the number of those who doubted, I began to doubt also. I coincided with him in opinion. I shall be a stanch and faithful disciple of his. I applaud that magnanimity which led him to withhold his signature. If he thinks now differently, he is as free as I am. Such is my situation, that, as a poor individual, I look for information every where.

This government is so new it wants a name. I wish its other novelties were as harmless as this. He told us we had an American dictator in the year 1781. We never had an American president. In making a dictator, we follow the example of the most glorious, magnanimous and skilful nations. In great dangers this power has been given. Rome had furnished us with an illustrious example. America found a person worthy of that trust: she looked to Virginia for him. We gave a dictatorial power to hands that used it gloriously, and which were rendered more glorious by surrendering it up. Where is there a breed of such dictators? Shall we find a set of American presidents of such a breed? Will the American president come and lay prostrate at the feet of congress his laurels? I fear there are few men who can be trusted on that head. The glorious republic of Holland has erected monuments to her warlike intrepidity and valor: yet she is now totally ruined by a stadtholder, a Dutch president. The destructive wars into which that nation has been plunged, have since involved her in ambition. The glorious triumphs of Blenheim and Ramillies were not so conformable to the genius, nor so much to the true interest of the republic, as those numerous and useful canals

and dikes, and other objects at which ambition spurns. That republic has, however, by the industry of its inhabitants and policy of its magistrates, suppressed the ill effects of ambition. Notwithstanding two of their provinces have paid nothing, yet I hope the example of Holland will tell us, that we can live happily without changing our present despised government. Cannot people be as happy under a mild as under an energetic government? Cannot content and felicity be enjoyed in a republic as well as in a monarchy, because there are whips, chains and scourges used in the latter? If I am not as rich as my neighbor, if I give my mite, my all, republican forbearance will say that it is sufficient. So said the honest confederates of Holland: "You are poor; we are rich. We will go on and do better, far better, than be under an oppressive government." Far better will it be for us to continue as we are, than go under that tight, energetic government. I am persuaded of what the honorable gentleman says, that separate confederacies will ruin us. In my judgment, they are evils never to be thought of till a people are driven by necessity. When he asks my opinion of consolidation, of one power to reign over America with a strong hand, I will tell him, I am persuaded of the rectitude of my honorable friend's opinion (Mr. Mason), that one government cannot reign over so extensive a country as this is, without absolute despotism. Compared to such a consolidation, small confederacies are little evils, though they ought to be recurred to but in case of necessity. Virginia and North Carolina are despised. They could exist separated from the rest of America. Maryland and Vermont were not overrun when out of the confederacy. Though it is not a desirable object, yet, I trust, that on examination it will be found, that Virginia and North Carolina would not be swallowed up in case it was necessary for them to be joined together.

When we come to the spirit of domestic peace, the humble genius of Virginia has formed a government suitable to the genius of her people. I believe the hands that formed the American constitution triumph in the experiment. It proves that the man who formed it, and perhaps by accident, did what design could not do in other parts of the world. After all your reforms in government, unless you consult the genius of the inhabitants, you will never succeed; your system can have no duration. Let me appeal to the candor of the committee, if the want of money be not the source of all our misfortunes. We cannot be blamed for not making dollars. This want of money cannot be supplied by changes in government. The only possible remedy, as I have before asserted, is industry aided by economy. Compare the genius of the people with the government of this country. Let me remark, that it stood the severest conflict during the war to which

human virtue has ever been called. I call upon every gentleman here to declare, whether the king of England had any subjects so attached to his family and government—so loyal as we were. But the genius of Virginia called us for liberty; called us from those beloved endearments, which, from long habits, we were taught to love and revere. We entertained from our earliest infancy the most sincere regard and reverence for the mother country. Our partiality extended to a predilection for her customs, habits, manners and laws. Thus inclined, when the deprivation of our liberty was attempted, what did we do? What did the genius of Virginia tell us? "Sell all and purchase liberty." This was a severe conflict. Republican maxims were then esteemed. Those maxims and the genius of Virginia landed you safe on the shore of freedom. On this awful occasion, did you want a federal government? Did federal ideas possess your minds? Did federal ideas lead you to the most splendid victories? I must again repeat the favorite idea, that the genius of Virginia did, and will again lead us to happiness. To obtain the most splendid prize, you did not consolidate. You accomplished the most glorious ends by the assistance of the genius of your country. Men were then taught by that genius that they were fighting for what was most dear to them. View the most affectionate father, the most tender mother, operated on by liberty, nobly stimulating their sons, their dearest sons, sometimes their only son, to advance to the defence of his country. We have seen sons of Cincinnatus without splendid magnificence or parade, going, with the genius of their great progenitor Cincinnatus, to the plough—men who served their country without ruining it; men who had served it to the destruction of their private patrimonies; their country owing them amazing amounts, for the payment of which no adequate provision was then made. We have seen such men throw prostrate their arms at your feet. They did not call for those emoluments which ambition presents to some imaginations. The soldiers who were able to command every thing, instead of trampling on those laws which they were instituted to defend, most strictly obeyed them. The hands of justice have not been laid on a single American soldier. Bring them into contrast with European veterans—you will see an astonishing superiority over the latter. There has been a strict subordination to the laws. The honorable gentleman's office gave him an opportunity of viewing if the laws were administered so as to prevent riots, routs and unlawful assemblies. From his then situation, he could have furnished us with the instances in which licentiousness trampled on the laws. Among all our troubles, we have paid almost to the last shilling, for the sake of justice: we have paid as well as any state; I will not say better. To support the general gov-

ernment and our own legislature; to pay the interest of the public debts, and defray contingencies, we have been heavily taxed. To add to these things, the distresses produced by paper money, and by tobacco contracts, were sufficient to render any people discontented. These, sir, were great temptations; but in the most severe conflict of misfortunes, this code of laws—this genius of Virginia, call it what you will, triumphed over every thing.

Why did it please the gentleman, (Mr. Corbin) to bestow such epithets on our country? Have the worms taken possession of the wood, that our strong vessel, our political vessel, has sprung a leak? He may know better than I; but I consider such epithets to be the most illiberal and unwarrantable aspersions on our laws. The system of laws under which we have lived, has been tried and found to suit our genius. I trust we shall not change this happy system. I cannot so easily take leave of an old friend. Till I see him following after and pursuing other objects, which can pervert the great objects of human legislation, pardon me if I withhold my assent.

Some here speak of the difficulty in forming a new code of laws. Young as we were, it was not wonderful if there was a difficulty in forming and assimilating one system of laws. I shall be obliged to the gentleman, if he would point out those glaring, those great faults. The efforts of assimilating our laws to our genius have not been found altogether vain. I shall pass over some other circumstances which I intended to mention, and endeavor to come to the capital objection, which my honorable friend made. My worthy friend said, that a republican form of government would not suit a very extensive country; but that if a government were judiciously organized, and limits prescribed to it, an attention to these principles might render it possible for it to exist in an extensive territory. Whoever will be bold to say, that a continent can be governed by that system, contradicts all the experience of the world. It is a work too great for human wisdom. Let me call for an example. Experience has been called the best teacher. I call for an example of a great extent of country, governed by one government, or congress, call it what you will. I tell him that a government may be trimmed up according to gentlemen's fancy, but it never can operate; it will be but very short-lived. However disagreeable it may be to lengthen my objections, I cannot help taking notice of what the honorable gentleman said. To me it appears that there is no check in that government. The president, senators and representatives, all immediately or mediately, are the choice of the people. Tell me not of checks on paper; but tell me of checks founded on self-love. The English government is founded on self-love. This powerful, irresistible stimulus of self-love has saved that government. It has interposed that hereditary nobility between the king and commons. If the house of lords assists or

permits the king to overturn the liberties of the people, the same tyranny will destroy them; they will therefore keep the balance in the democratic branch. Suppose they see the commons encroach upon the king: self-love, that great, energetic check, will call upon them to interpose; for, if the king be destroyed, their destruction must speedily follow. Here is a consideration which prevails in my mind, to pronounce the British government superior, in this respect, to any government that ever was in any country. Compare this with your congressional checks. I beseech gentlemen to consider whether they can say, when trusting power, that a mere patriotic profession will be equally operative and efficacious, as the check of self-love. In considering the experience of ages, is it not seen that fair, disinterested patriotism and professions of attachment to rectitude, have never been solely trusted to by an enlightened, free people? If you depend on your president's and senators' patriotism, you are gone. Have you a resting-place like the British government? Where is the rock of your salvation? The real rock of political salvation is self-love, perpetuated from age to age in every human breast, and manifested in every action. If they can stand the temptations of human nature, you are safe. If you have a good president, senators, and representatives, there is no danger. But can this be expected from human nature? Without real checks it will not suffice that some of them are good. A good president, or senator, or representative, will have a natural weakness. Virtue will slumber: the wicked will be continually watching: consequently you will be undone. Where are your checks? You have no hereditary nobility—an order of men, to whom human eyes can be cast up for relief; for, says the constitution, there is no title of nobility to be granted; which, by the by, would not have been so dangerous as the perilous cession of powers contained in that paper; because, as Montesquieu says, when you give titles of nobility, you know what you give; but when you give power, you know not what you give. If you say that, out of this depraved mass, you can collect luminous characters, it will not avail, unless this luminous breed will be propagated from generation to generation; and even then, if the number of vicious characters will preponderate, you are undone. And that this will certainly be the case, is, to my mind, perfectly clear. In the British government, there are real balances and checks: in this system, there are only ideal balances. Till I am convinced that there are actual, efficient checks, I will not give my assent to its establishment. The president and senators have nothing to lose. They have not that interest in the preservation of the government, that the king and lords have in England. They will therefore be regardless of the interests of the people. The constitution will

be as safe with one body as with two. It will answer every purpose of human legislation. How was the constitution of England when only the commons had the power? I need only remark, that it was the most unfortunate era when the country returned to king, lords and commons, without sufficient responsibility in the king. When the commons of England, in the manly language which became freemen, said to their king, "You are our servant," then the temple of liberty was complete. From that noble source have we derived our liberty: that spirit of patriotic attachment to one's country, that zeal for liberty, and that enmity to tyranny, which signalized the then champions of liberty, we inherit from our British ancestors. And I am free to own, that if you cannot love a republican government, you may love the British monarchy: for, although the king is not sufficiently responsible, the responsibility of his agents, and the efficient checks interposed by the British constitution, render it less dangerous than other monarchies, or oppressive tyrannical aristocracies. What are their checks of exposing accounts? Their checks upon paper are inefficient and nugatory. Can you search your president's closet? Is this a real check? We ought to be exceedingly cautious in giving up this life, this soul—our money—this power of taxation, to congress. What powerful check is there here to prevent the most extravagant and profligate squandering of the public money? What security have we in money matters? Inquiry is precluded by this constitution. I never wish to see congress supplicate the states. But it is more abhorrent to my mind to give them an unlimited and unbounded command over our souls, our lives, our purses, without any check or restraint. How are you to keep inquiry alive? how discover their conduct? We are told by that paper, that a regular statement and account of the receipts and expenditures of all public money shall be published from time to time. Here is a beautiful check! What time? Here is the utmost latitude left. If those who are in congress please to put that construction upon it, the words of the constitution will be satisfied by publishing those accounts once in one hundred years. They may publish or not, as they please. Is this like the present despised system, whereby the accounts are to be published monthly?

I come now to speak something of requisitions, which the honorable gentleman thought so truly contemptible and disgraceful. That honorable gentleman, being a child of the revolution, must recollect with gratitude the glorious effects of requisitions. It is an idea that must be grateful to every American. An English army was sent to compel us to pay money contrary to our consent; to force us by arbitrary and tyrannical coercion to satisfy their unbounded demands. We wished to pay with our own con-

sent. Rather than pay against our consent, we engaged in that bloody contest, which terminated so gloriously. By requisitions we pay with our own consent; by their means we have triumphed in the most arduous struggle that ever tried the virtue of man. We fought then for what we are contending now—to prevent an arbitrary deprivation of our property, contrary to our consent and inclination. I shall be told, in this place, that those who are to tax us are our representatives. To this I answer, that there is no real check to prevent their ruining us. There is no actual responsibility. The only semblance of a check is the negative power of not reelecting them. This, sir, is but a feeble barrier, when their personal interest, their ambition and avarice come to be put in contrast with the happiness of the people. All checks founded on any thing but self-love, will not avail. This constitution reflects, in the most degrading and mortifying manner, on the virtue, integrity and wisdom of the state legislatures: it presupposes that the chosen few who go to congress, will have more upright hearts, and more enlightened minds, than those who are members of the individual legislatures. To suppose that ten gentlemen shall have more real substantial merit than one hundred and seventy, is humiliating to the last degree. If, sir, the diminution of numbers be an augmentation of merit, perfection must centre in one. If you have the faculty of discerning spirits, it is better to point out at once the man who has the most illumined qualities. If ten men be better than one hundred and seventy, it follows of necessity that one is better than ten—the choice is more refined.

Such is the danger of the abuse of implied power, that it would be safer at once to have seven representatives, the number to which we are now entitled, than depend on the uncertain and ambiguous language of that paper. The number may be lessened instead of being increased; and yet by argumentative, constructive, implied power, the proportion of taxes may continue the same or be increased. Nothing is more perilous than constructive power, which gentlemen are so willing to trust their happiness to.

If sheriffs prove now an overmatch for our legislature; if their ingenuity has eluded the vigilance of our laws, how will the matter be amended when they come clothed with federal authority? A strenuous argument offered by gentlemen is, that the same sheriffs may collect for the continental and state treasuries. I have before shown, that this must have an inevitable tendency to give a decided preference to the federal treasury in the actual collections, and to throw all deficiencies on the state. This imaginary remedy for the evil of congressional taxation, will have another oppressive operation. The sheriff comes to-day as a state collect-

or—next day he is federal—how are you to fix him? How will it be possible to discriminate oppressions committed in one capacity from those perpetrated in the other? Will not his ingenuity perplex the simple, honest planter? This will at least involve in difficulties those who are unacquainted with legal ingenuity. When you fix him, where are you to punish him? For I suppose they will not stay in our courts: they must go to the federal court; for if I understand that paper right, all controversies arising under that constitution, or under the laws made in pursuance thereof, are to be tried in that court. When gentlemen told us, that this part deserved the least exception, I was in hopes they would prove that there was plausibility in their suggestions, and that oppression would probably not follow. Are we not told that it shall be treason to levy war against the United States? Suppose an insult offered to the federal laws at an immense distance from Philadelphia; will this be deemed treason? And shall a man be dragged many hundred miles to be tried as a criminal for having, perhaps justifiably, resisted an unwarrantable attack upon his person or property? I am not well acquainted with federal jurisprudence; but it appears to me that these oppressions must result from this part of the plan. It is at least doubtful, and where there is even a possibility of such evils, they ought to be guarded against.

There are to be a number of places fitted out for arsenals and dock-yards in the different states. Unless you sell to congress such places as are proper for these within your state, you will not be consistent after adoption; it results therefore clearly that you are to give into their hands all such places as are fit for strongholds. When you have these fortifications and garrisons within your state, your legislature will have no power over them, though they see the most dangerous insults offered to the people daily. They are also to have magazines in each state: these depositories for arms, though within the state, will be free from the control of its legislature. Are we at last brought to such a humiliating and debasing degradation, that we cannot be trusted with arms for our own defence? There is a wide difference between having our arms in our own possession and under our own direction, and having them under the management of congress. If our defence be the real object of having those arms, in whose hands can they be trusted with more propriety or equal safety to us as in our own? If our legislature be unworthy of legislating for every foot in this state, they are unworthy of saying another word.

The clause which says that congress shall "provide for arming, organizing and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states respectively the appointment of the officers,"

seemed to put the states in the power of congress. I wished to be informed, if congress neglected to discipline them, whether the states were not precluded from doing it. Not being favored with a particular answer, I am confirmed in my opinion that the states have not the power of disciplining them, without recurring to the doctrine of constructive, implied powers. If by implication the states may discipline them, by implication also congress may officer them; because, in a partition of power, each has a right to come in for part; and because implication is to operate in favor of congress on all occasions, where their object is the extension of power, as well as in favor of the states. We have not one fourth of the arms that would be sufficient to defend ourselves. The power of arming the militia, and the means of purchasing arms, are taken from the states by the paramount powers of congress. If congress will not arm them, they will not be armed at all.

There have been no instances shown of a voluntary cession of power, sufficient to induce me to grant the most dangerous powers: a possibility of their future relinquishment will not persuade me to yield such powers.

Congress, by the power of taxation, by that of raising an army, and by their control over the militia, have the sword in one hand and the purse in the other. Shall we be safe without either? Congress have an unlimited power over both: they are entirely given up by us. Let him candidly tell me, where and when did freedom exist when the sword and purse were given up by the people? Unless a miracle in human affairs interposed, no nation ever retained its liberty after the loss of the sword and purse. Can you prove, by any argumentative deduction, that it is possible to be safe without retaining one of these? If you give them up, you are gone. Give us at least a plausible apology why congress should keep their proceedings in secret. They have the power of keeping them secret as long as they please; for the provision for a periodical publication is too inexplicit and ambiguous to avail any thing. The expression, from time to time, as I have more than once observed, admits of any extension. They may carry on the most wicked and pernicious of schemes under the dark veil of secrecy. The liberties of a people never were nor ever will be secure, when the transactions of their rulers may be concealed from them. The most iniquitous plots may be carried on against their liberty and happiness. I am not an advocate for divulging indiscriminately all the operations of government, though the practice of our ancestors in some degree justifies it. Such transactions as relate to military operations or affairs of great consequence, the immediate promulgation of which might defeat the interests of the community I would not wish to be published till the end which

required their secrecy should have been effected. But to cover, with the veil of secrecy, the common routine of business, is an abomination in the eyes of every intelligent man and every friend to his country.

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I appeal to this convention if it would not be better for America to take off the veil of secrecy. Look at us—hear our transactions. If this had been the language of the federal convention, what would have been the result? Such a constitution would not have come out to your utter astonishment, conceding such dangerous powers, and recommending secrecy in the future transactions of government. I believe it would have given more general satisfaction if the proceedings of that convention had not been concealed from the public eye. This constitution authorizes the same conduct. There is not an English feature in it. The transactions of congress may be concealed a century from the public consistently with the constitution. This, sir, is a laudable imitation of the transactions of the Spanish treaty. We have not forgotten with what a thick veil of secrecy those transactions were covered.

We are told that this government, collectively taken, is without an example; that it is national in this part, and federal in that part, &c. We may be amused, if we please, by a treatise of political anatomy. In the brain it is national: the *stamina* are federal: some limbs are federal, others national. The senators are voted for by the state legislatures; so far it is federal. Individuals choose the members of the first branch; here it is national. It is federal in conferring general powers, but national in retaining them. It is not to be supported by the states—the pockets of individuals are to be searched for its maintenance. What signifies it to me that you have the most curious anatomical description of it in its creation? To all the common purposes of legislation it is a great consolidation of government. You are not to have the right to legislate in any but trivial cases: you are not to touch private contracts: you are not to have the right of having arms in your own defence: you cannot be trusted with dealing out justice between man and man. What shall the states have to do? Take care of the poor, repair and make highways, erect bridges, and so on and so on. Abolish the state legislatures at once. What purposes should they be continued for? Our legislature will indeed be a ludicrous spectacle—one hundred and eighty men, marching in solemn, farcical procession, exhibiting a mournful proof of the lost liberty of their country, without the power of restoring it. But, sir, we have the consolation, that it is a mixed government; that is, it may work sorely on your neck, but you will have

some comfort by saying that it was a federal government in its origin.

I beg gentlemen to consider; lay aside your prejudices—is this a federal government? Is it not a consolidated government for every purpose almost? Is the government of Virginia a state government after this government is adopted? I grant that it is a republican government; but for what purposes? For such trivial, domestic considerations as render it unworthy the name of a legislature. I shall take leave of this political anatomy by observing, that it is the most extraordinary that ever entered into the imagination of man. If our political diseases demand a cure, this is an unheard-of medicine. The honorable member, I am convinced, wanted a name for it. Were your health in danger, would you take new medicine? I need not make use of these exclamations; for every member in this committee must be alarmed at making new and unusual experiments in government. Let us have national credit and a national treasury in case of war. You never can want national resources in time of war, if the war be a national one, if it be necessary, and this necessity be obvious to the meanest capacity. The utmost exertions will be used by the people of America in that case. A republic has this advantage over a monarchy, that its wars are generally founded on more just grounds. A republic can never enter into a war unless it be a national war, unless it be approved of, or desired by the whole community. Did ever a republic fail to use the utmost resources of the community when a war was necessary? I call for an example. I call also for an example when a republic has been engaged in a war contrary to the wishes of its people. There are thousands of examples where the ambition of its prince has precipitated a nation into the most destructive war. No nation ever withheld power when its object was just and right. I will hazard an observation: I find fault with the paper before you because the same power that declares war has the ability to carry it on. Is it so in England? The king declares war: the house of commons gives the means of carrying it on. This is a strong check on the king. He will enter into no war that is unnecessary; for the commons, having the power of withholding the means, will exercise that power, unless the object of the war be for the interest of the nation. How is it here? The congress can both declare war and carry it on, and levy your money as long as you have a shilling to pay.

I shall now speak a little of the colonial confederacy which was proposed at Albany. Massachusetts did not give her consent to the project at Albany so as to consolidate with the other colonies. Had there been a consolidation at Albany, where would

have been their charter? Would that confederacy have preserved their charter from Britain? The strength and energy of the then designed government would have crushed American opposition.

The American revolution took its origin from the comparative weakness of the British government not being concentred in one point. A concentration of the strength and interest of the British government in one point, would have rendered opposition to its tyrannies fruitless. For want of that consolidation do we now enjoy liberty, and the privilege of debating at this moment. I am pleased with the colonial establishment. The example, which the honorable member has produced to persuade us to depart from our present confederacy, rivets me to my former opinion, and convinces me that consolidation must end in the destruction of our liberties.

The honorable gentleman has told us of our ingratitude to France. She does not intend to take payment by force. Ingratitude shall not be laid to my charge. I wish to see the friendship between this country and that magnanimous ally perpetuated. Requisitions will enable us to pay the debts we owe to France and other countries. She does not desire us to go from our beloved republican government. The change is inconsistent with our engagements with those nations. It is cried out that those in opposition wish disunion. This is not true. They are the most strenuous friends to it. This government will clearly operate disunion. If it be heard on the other side of the Atlantic that you are going to disunite and dissolve the confederacy, what says France? Will she be indifferent to an event that will so radically affect her treaties with us? Our treaty with her is founded on the confederation —we are bound to her as thirteen states confederated. What will become of the treaty? It is said that treaties will be on a better footing. How so? Will the president, senate, and house of representatives, be parties to them? I cannot conceive how the treaties can be as binding, if the confederacy is dissolved, as they are now. Those nations will not continue their friendship then; they will become our enemies. I look on the treaties as the greatest pillars of safety. If the house of Bourbon keeps us, we are safe. Dissolve that confederacy—who has you?—the British. Federalism will not protect you from the British. Is a connection with that country more desirable? I was amazed when gentlemen forgot the friends of America. I hope that this dangerous change will not be effected. It is safe for the French and Spaniards that we should continue to be thirteen states; but it is not so that we should be consolidated into one government. They have settlements in America; will they like schemes of popular ambition?

Will they not have some serious reflections? You may tell them you have not changed your situation; but they will not believe you. If there be a real check intended to be left on congress, it must be left in the state governments. There will be some check as long as the judges are incorrupt. As long as they are upright, you may preserve your liberty. But what will the judges determine when the state and federal authority come to be contrasted? Will your liberty then be secure, when the congressional laws are declared paramount to the laws of your state, and the judges are sworn to support them?

I am constrained to make a few remarks on the absurdity of adopting this system, and relying on the chance of getting it amended afterwards. When it is confessed to be replete with defects, is it not offering to insult your understandings, to attempt to reason you out of the propriety of rejecting it, till it be amended? Does it not insult your judgments to tell you—Adopt first and then amend? Is your rage for novelty so great, that you are first to sign and seal, and then to retract? Is it possible to conceive a greater solecism? I am at a loss what to say. You agree to bind yourselves hand and foot—for the sake of what? Of being unbound. You go into a dungeon—for what? To get out. Is there no danger, when you go in, that the bolts of federal authority shall shut you in? Human nature never will part from power. Look for an example of a voluntary relinquishment of power, from one end of the globe to another—you will find none. Nine tenths of our fellow-men have been, and are now, depressed by the most intolerable slavery, in the different parts of the world; because the strong hand of power has bolted them in the dungeon of despotism. Review the present situation of the nations of Europe, which is pretended to be the freest quarter of the globe. Cast your eyes on the countries called free there. Look at the country from which we are descended, I beseech you; and although we are separated by everlasting, insuperable partitions, yet there are some virtuous people there who are friends to human nature and liberty. Look at Britain; see there the bolts and bars of power; see bribery and corruption defiling the fairest fabric that ever human nature reared. Can a gentleman who is an Englishman, or who is acquainted with the English history, desire to prove these evils? See the efforts of a man descended from a friend of America; see the efforts of that man, assisted even by the king, to make reforms. But you find the faults too strong to be amended. Nothing but bloody war can alter them. See Ireland: that country groaned from century to century, without getting their government amended. Previous adoption was the fashion there. They sent for amendments from time to time, but never obtained them,

though pressed by the severest oppression, till eighty thousand volunteers demanded them sword in hand—till the power of Britain was prostrate; when the American resistance was crowned with success. Shall we do so? If you judge by the experience of Ireland, you must obtain the amendments as early as possible. But I ask you again, Where is the example that a government was amended by those who instituted it? Where is the instance of the errors of a government rectified by those who adopted them?

I shall make a few observations to prove, that the power over elections, which is given to congress, is contrived by the federal government; that the people may be deprived of their proper influence in the government, by destroying the force and effect of their suffrages. Congress is to have a discretionary control over the time, place and manner of elections. The representatives are to be elected consequently when and where they please. As to the time and place, gentlemen have attempted to obviate the objection by saying, that the time is to happen once in two years, and that the place is to be within a particular district, or in the respective counties. But how will they obviate the danger of referring the manner of election to congress? Those illumined *genii* may see that this may not endanger the rights of the people; but to my unenlightened understanding, it appears plain and clear, that it will impair the popular weight in the government. Look at the Roman history. They had two ways of voting: the one by tribes, and the other by centuries. By the former, numbers prevailed: in the latter, riches preponderated. According to the mode prescribed, congress may tell you, that they have a right to make the vote of one gentleman go as far as the votes of one hundred poor men. The power over the manner admits of the most dangerous latitude. They may modify it as they please. They may regulate the number of votes by the quantity of property, without involving any repugnancy to the constitution. I should not have thought of this trick or contrivance, had I not seen how the public liberty of Rome was trifled with by the mode of voting by centuries, whereby one rich man had as many votes as a multitude of poor men. The plebeians were trampled on till they resisted. The patricians trampled on the liberties of the plebeians, till the latter had spirit to assert their right to freedom and equality. The result of the American mode of election may be similar. Perhaps I shall be told, that I have gone through the regions of fancy; that I deal in noisy exclamations, and mighty professions of patriotism. Gentlemen may retain their opinions; but I look on that paper as the most fatal plan that could possibly be conceived to enslave a free people. If such be your rage for novelty, take it

and welcome; but you never shall have my consent. My sentiments may appear extravagant, but I can tell you, that a number of my fellow-citizens have kindred sentiments; and I am anxious, if my country should come into the hands of tyranny, to exculpate myself from being in any degree the cause, and to exert my faculties to the utmost to extricate her. Whether I am gratified or not in my beloved form of government, I consider that the more she is plunged into distress, the more it is my duty to relieve her. Whatever may be the result, I shall wait with patience till the day may come, when an opportunity shall offer to exert myself in her cause.

But I should be led to take that man for a lunatic, who should tell me to run into the adoption of a government avowedly defective, in hopes of having it amended afterwards. Were I about to give away the meanest particle of my own property, I should act with more prudence and discretion. My anxiety and fears are great, lest America, by the adoption of this system, should be cast into a fathomless abyss.

SPEECH OF PATRICK HENRY,

ON THE EXPEDIENCY OF ADOPTING THE

FEDERAL CONSTITUTION,

DELIVERED IN THE CONVENTION OF VIRGINIA, JUNE 24, 1788.*

Mr. Chairman,

The proposal of ratification is premature. The importance of the subject requires the most mature deliberation. The honorable member must forgive me for declaring my dissent from it, because, if I understand it rightly, it admits that the new system is defective, and most capitally; for, immediately after the proposed ratification, there comes a declaration, that the paper before you is not intended to violate any of these three great rights—the liberty of religion, liberty of the press, and the trial by jury. What is the inference, when you enumerate the rights which you are to enjoy? That those not enumerated are relinquished. There are only three things to be retained—religion, freedom of the press, and jury trial. Will not the ratification carry every thing, without excepting these three things? Will not all the world pronounce, that we intended to give up all the rest? Every thing it speaks of, by way of rights, is comprised in these three things. Your subsequent amendments only go to these three amendments. I feel myself distressed, because the necessity of securing our personal rights seems not to have pervaded the minds of men; for many other valuable things are omitted. For instance: general warrants, by which an officer may search suspected places without evidence of the commission of a fact, or seize any person without evidence of his crime, ought to be prohibited. As these are admitted, any man may be seized; any property may be taken, in the most arbitrary manner, without any evidence or reason. Every thing, the most sacred, may be searched and ransacked by the strong hand of power. We have infinitely more reason to dread general warrants here, than they have in England;

* Upon the resolution of Mr. Wythe, which proposed, "That the committee should ratify the constitution, and that whatsoever amendments might be deemed necessary should be recommended to the consideration of the congress, which should first assemble under the constitution, to be acted upon according to the mode prescribed therein."

because there, if a person be confined, liberty may be quickly obtained by the writ of *habeas corpus*. But here, a man living many hundred miles from the judges may rot in prison before he can get that writ.

Another most fatal omission is, with respect to standing armies. In your bill of rights of Virginia, they are said to be dangerous to liberty; and it tells you, that the proper defence of a free state consists in militia; and so I might go on to ten or eleven things of immense consequence secured in your bill of rights, concerning which that proposal is silent. Is that the language of the bill of rights in England? Is it the language of the American bill of rights, that these three rights, and these only, are valuable? Is it the language of men going into a new government? Is it not necessary to speak of those things before you go into a compact? How do these three things stand? As one of the parties, we declare we do not mean to give them up. This is very dictatorial; much more so than the conduct which proposes alterations as the condition of adoption. In a compact, there are two parties—one accepting, and another proposing. As a party, we propose that we shall secure these three things; and before we have the assent of the other contracting party, we go into the compact, and leave these things at their mercy. What will be the consequence? Suppose the other states will call this dictatorial: they will say, Virginia has gone into the government, and carried with her certain propositions, which, she says, ought to be concurred in by the other states. They will declare, that she has no right to dictate to other states the conditions on which they shall come into the union. According to the honorable member's proposal, the ratification will cease to be obligatory unless they accede to these amendments. We have ratified it. You have committed a violation, they will say. They have not violated it. We say we will go out of it. You are then reduced to a sad dilemma—to give up these three rights, or leave the government. This is worse than our present confederation, to which we have hitherto adhered honestly and faithfully. We shall be told we have violated it, because we have left it for the infringement and violation of conditions, which they never agreed to be a part of the ratification. The ratification will be complete. The proposal is made by one party. We, as the other, accede to it, and propose the security of these three great rights; for it is only a proposal. In order to secure them, you are left in that state of fatal hostility, which I shall as much deplore as the honorable gentleman. I exhort gentlemen to think seriously before they ratify this constitution, and persuade themselves that they will succeed in making a feeble effort to get amendments after adoption. With respect to that part of the proposal which says that every power not granted re-

mains with the people, it must be previous to adoption, or it will involve this country in inevitable destruction. To talk of it as a thing subsequent, not as one of your inalienable rights, is leaving it to the casual opinion of the congress who shall take up the consideration of that matter. They will not reason with you about the effect of this constitution. They will not take the opinion of this committee concerning its operation. They will construe it as they please. If you place it subsequently, let me ask the consequences. Among ten thousand implied powers which they may assume, they may, if we be engaged in war, liberate every one of your slaves, if they please. And this must and will be done by men, a majority of whom have not a common interest with you. They will, therefore, have no feeling for your interests.

It has been repeatedly said here that the great object of a national government is national defence. That power which is said to be intended for security and safety, may be rendered detestable and oppressive. If you give power to the general government to provide for the general defence, the means must be commensurate to the end. All the means in the possession of the people must be given to the government which is intrusted with the public defence. In this state there are two hundred and thirty-six thousand blacks, and there are many in several other states; but there are few or none in the Northern States; and yet, if the Northern States shall be of opinion that our numbers are numberless, they may call forth every national resource. May congress not say, that every black man must fight? Did we not see a little of this in the last war? We were not so hard pushed as to make emancipation general: but acts of assembly passed, that every slave who would go to the army should be free. Another thing will contribute to bring this event about: slavery is detested; we feel its fatal effects; we deplore it with all the pity of humanity. Let all these considerations, at some future period, press with full force on the minds of congress. Let that urbanity, which I trust will distinguish America, and the necessity of national defence—let all these things operate on their minds, and they will search that paper, and see if they have power of manumission. And have they not, sir? Have they not power to provide for the general defence and welfare? May they not think that these call for the abolition of slavery? May they not pronounce all slaves free, and will they not be warranted by that power? There is no ambiguous implication, or logical deduction. The paper speaks to the point. They have the power in clear, unequivocal terms, and will clearly and certainly exercise it. As much as I deplore slavery, I see that prudence forbids its abolition. I deny that the general government ought to set them free, because a decided majority of the states have not the ties of sympathy and fellow-feeling for those

whose interest would be affected by their emancipation. The majority of congress is to the north, and the slaves are to the south. In this situation, I see a great deal of the property of the people of Virginia in jeopardy, and their peace and tranquillity gone away. I repeat it again, that it would rejoice my very soul that every one of my fellow-beings was emancipated. As we ought with gratitude to admire that decree of Heaven which has numbered us among the free, we ought to lament and deplore the necessity of holding our fellow-men in bondage. But is it practicable, by any human means, to liberate them, without producing the most dreadful and ruinous consequences? We ought to possess them in the manner we have inherited them from our ancestors, as their manumission is incompatible with the felicity of the country. But we ought to soften, as much as possible, the rigor of their unhappy fate. I know that in a variety of particular instances, the legislature, listening to complaints, have admitted their emancipation. Let me not dwell on this subject. I will only add, that this, as well as every other property of the people of Virginia, is in jeopardy, and put in the hands of those who have no similarity of situation with us. This is a local matter, and I can see no propriety in subjecting it to congress.

With respect to subsequent amendments, proposed by the worthy member, I am distressed when I hear the expression. It is a new one altogether, and such a one as stands against every idea of fortitude and manliness, in the states, or any one else. Evils admitted, in order to be removed subsequently, and tyranny submitted to, in order to be excluded by a subsequent alteration, are things totally new to me. But I am sure he meant nothing but to amuse the committee. I know his candor. His proposal is an idea dreadful to me. I ask—Does experience warrant such a thing from the beginning of the world to this day? Do you enter into a compact of government first, and afterwards settle the terms of the government? It is admitted by every one, that this is a compact. Although the confederation be lost, it is a compact constitution, or something of that nature. I confess I never heard of such an idea before. It is most abhorrent to my mind. You endanger the tranquillity of your country, you stab its repose, if you accept this government unaltered. How are you to allay animosities? For such there are, great and fatal. He flatters me, and tells me, that I could influence the people, and reconcile them to it. Sir, their sentiments are as firm and steady as they are patriotic. Were I to ask them to apostatize from their native religion, they would despise me. They are not to be shaken in their opinions with respect to the propriety of preserving their rights. You never can persuade them, that it is necessary to relinquish them. Were I to attempt to persuade them to abandon their pat-

riotic sentiments, I should look on myself as the most infamous of men. I believe it to be a fact, that the great body of yeomanry are in decided opposition to it. I may say with confidence, that, for nineteen counties adjacent to each other, nine tenths of the people are conscientiously opposed to it. I may be mistaken, but I give you it as my opinion; and my opinion is founded on personal knowledge in some measure, and other good authority. I have not hunted popularity by declaiming to injure this government. Though public fame might say so, it was not owing to me that this flame of opposition has been kindled and spread. These men never will part with their political opinions. If they should see their political happiness secured to the latest posterity, then indeed they might agree to it. Subsequent amendments will not do for men of this cast. Do you consult the union in proposing them? You may amuse them as long as you please; but they will never like it. You have not solid reality—the hearts and hands of the men who are to be governed.

Have gentlemen no respect to the actual dispositions of the people in the adopting states? Look at Pennsylvania and Massachusetts. These two great states have raised as great objections to that government as we do. There was a majority of only nineteen in Massachusetts. We are told that only ten thousand were represented in Pennsylvania, although seventy thousand had a right to be represented. Is not this a serious thing? Is it not worth while to turn your eyes for a moment, from subsequent amendments, to the situation of your country? Can you have a lasting union in these circumstances? It will be in vain to expect it. But if you agree to previous amendments, you shall have union, firm and solid. I cannot conclude without saying, that I shall have nothing to do with it, if subsequent amendments be determined upon. Oppressions will be carried on as radically by the majority, when adjustments and accommodations will be held up. I say, I conceive it my duty, if this government is adopted before it is amended, to go home. I shall act as I think my duty requires. Every other gentleman will do the same. Previous amendments, in my opinion, are necessary to procure peace and tranquillity. I fear if they be not agreed to, every movement and operation of government will cease; and how long that baneful thing, civil discord, will stay from this country, God only knows. When men are free from restraint, how long will you suspend their fury? The interval between this and bloodshed is but a moment. The licentious and wicked of the community will seize with avidity every thing you hold. In this unhappy situation, what is to be done? It surpasses my stock of wisdom. If you will, in the language of freemen, stipulate that there are rights which no man under heaven can take from you, you shall have me going

along with you, and not otherwise.—[Here Mr. Henry informed the committee, that he had a resolution prepared, to refer a declaration of rights, with certain amendments to the most exceptionable parts of the constitution, to the other states in the confederacy, for their consideration, previous to its ratification. The clerk then read the resolution, the declaration of rights, and amendments, which were nearly the same as those ultimately proposed by the convention, for the consideration of congress. He then resumed the subject.] I have thus candidly submitted to you, Mr. Chairman, and this committee, what occurred to me as proper amendments to the constitution, and a declaration of rights containing those fundamental, inalienable privileges, which I conceive to be essential to liberty and happiness. I believe, that, on a review of these amendments, it will still be found, that the arm of power will be sufficiently strong for national purposes, when these restrictions shall be a part of the government. I believe no gentleman, who opposes me in sentiments, will be able to discover that any one feature of a strong government is altered; and at the same time your inalienable rights are secured by them. The government unaltered may be terrible to America, but can never be loved, till it be amended. You find all the resources of the continent may be drawn to a point. In danger, the president may concentre to a point every effort of the continent. If the government be constructed to satisfy the people and remove their apprehensions, the wealth and strength of the continent will go where public utility shall direct. This government, with these restrictions, will be a strong government united with the privileges of the people. In my weak judgment, a government is strong, when it applies to the most important end of all governments—the rights and privileges of the people. In the honorable member's proposal, jury trial, the press, and religion, and other essential rights, are not to be given up. Other essential rights—what are they? The world will say, that you intended to give them up. When you go into an enumeration of your rights, and stop that enumeration, the inevitable conclusion is, that what is omitted is intended to be surrendered.

Anxious as I am to be as little troublesome as possible, I cannot leave this part of the subject without adverting to one remark of the honorable gentleman. He says, that, rather than bring the union into danger, he will adopt it with its imperfections. A great deal is said about disunion, and consequent dangers. I have no claim to a greater share of fortitude than others; but I can see no kind of danger. I form my judgment on a single fact alone, that we are at peace with all the world; nor is there any apparent cause of a rupture with any nation in the world. Is it among the American states that the cause of disunion is to be feared? Are not the states using all their efforts for the promotion of union?

New England sacrifices local prejudices for the purposes of union. We hear the necessity of the union, and predilection for the union, reëchoed from all parts of the continent; and all at once disunion is to follow! If gentlemen dread disunion, the very thing they advocate will inevitably produce it. A previous ratification will raise insurmountable obstacles to union. New York is an insurmountable obstacle to it, and North Carolina also. They will never accede to it till it be amended. A great part of Virginia is opposed, most decidedly, to it, as it stands. This very spirit which will govern us in these three states, will find a kindred spirit in the adopting states. Give me leave to say, that it is very problematical whether the adopting states can stand on their own legs. I hear only on one side, but as far as my information goes, there are heart-burnings and animosities among them. Will these animosities be cured by subsequent amendments?

Turn away from America, and consider European politics. The nations there, which can trouble us, are France, England, and Spain. But at present we know for a certainty, that those nations are engaged in very different pursuits from American conquests. We are told by our intelligent ambassador, that there is no such danger as has been apprehended. Give me leave then to say, that dangers from beyond the Atlantic are imaginary. From these premises, then, it may be concluded, that, from the creation of the world to this time, there never was a more fair and proper opportunity than we have at this day to establish such a government as will permanently establish the most transcendent political felicity. Since the revolution there has not been so much experience. Since then, the general interests of America have not been better understood, nor the union more ardently loved, than at this present moment. I acknowledge the weakness of the old confederation. Every man says, that something must be done. Where is the moment more favorable than this? During the war, when ten thousand dangers surrounded us, America was magnanimous. What was the language of the little state of Maryland? "I will have time to consider. I will hold out three years. Let what may come, I will have time to reflect." Magnanimity appeared every where. What was the upshot?—America triumphed. Is there any thing to forbid us to offer these amendments to the other states? If this moment goes away unimproved, we shall never see its return. We now act under a happy system, which says, that a majority may alter the government when necessary. But by the paper proposed, a majority will forever endeavor in vain to alter it. Three fourths may. Is not this the most promising time for securing the necessary alterations? Will you go into that government, where it is a principle, that a contemptible minority may prevent an alteration? What will be the language of the majori-

ty ?—Change the government.—Nay, seven eighths of the people of America may wish the change; but the minority may come with a Roman *Veto*, and object to the alteration. The language of a magnanimous country and of freemen is, Till you remove the defects, we will not accede. It would be in vain for me to show, that there is no danger to prevent our obtaining those amendments, if you are not convinced already. If the other states will not agree to them, it is not an inducement to union. The language of this paper is not dictatorial, but merely a proposition for amendments. The proposition of Virginia met with a favorable reception before. We proposed that convention which met at Annapolis. It was not called dictatorial. We proposed that at Philadelphia. Was Virginia thought dictatorial? But Virginia is now to lose her preëminence. Those rights of equality, to which the meanest individual in the community is entitled, are to bring us down infinitely below the Delaware people. Have we not a right to say, Hear our propositions? Why, sir, your slaves have a right to make their humble requests. Those, who are in the meanest occupations of human life, have a right to complain. What do we require? Not preëminence, but safety; that our citizens may be able to sit down in peace and security under their own fig-trees. I am confident that sentiments like these will meet with unison in every state; for they will wish to banish discord from the American soil. I am certain that the warmest friend of the constitution wishes to have fewer enemies—fewer of those who pester and plague him with opposition. I could not withhold from my fellow-citizens any thing so reasonable. I fear you will have no union, unless you remove the cause of opposition. Will you sit down contented with the name of union without any solid foundation?

SPEECH OF FISHER AMES,

ON

THE BRITISH TREATY,

DELIVERED IN THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES, APRIL 28, 1796.

On the 28th October, 1794, a treaty between Great Britain and the United States (known as "Jay's Treaty") was concluded and subsequently ratified by the president of the United States. On the 1st March, 1796, it was communicated to the house of representatives, in order that the necessary appropriations might be made to carry it into effect, in committee of the whole on the following resolution:—*Resolved*, as the opinion of this committee, that it is expedient to pass the laws necessary for carrying into effect the treaty with Great Britain. Mr. Ames spoke as follows:—

Mr. Chairman,

I entertain the hope, perhaps a rash one, that my strength will hold me out to speak a few minutes.

In my judgment, a right decision will depend more on the temper and manner, with which we may prevail upon ourselves to contemplate the subject, than upon the development of any profound political principles, or any remarkable skill in the application of them. If we could succeed to neutralize our inclinations, we should find less difficulty than we have to apprehend in surmounting all our objections.

The suggestion, a few days ago, that the house manifested symptoms of heat and irritation, was made and retorted as if the charge ought to create surprise, and would convey reproach. Let us be more just to ourselves, and to the occasion. Let us not affect to deny the existence and the intrusion of some portion of prejudice and feeling into the debate, when, from the very structure of our nature, we ought to anticipate the circumstance as a probability, and when we are admonished by the evidence of our senses that it is the fact.

How can we make professions for ourselves, and offer exhortations to the house, that no influence should be felt but that of duty, and no guide respected but that of the understanding, while the peal to rally every passion of man is continually ringing in our ears?

Our understandings have been addressed, it is true, and with ability and effect; but, I demand, has any corner of the heart been left unexplored? It has been ransacked to find auxiliary arguments, and, when that attempt failed, to awaken the sensibilities that would require none. Every prejudice and feeling has been summoned to listen to some peculiar style of address; and yet we seem to believe, and to consider a doubt as an affront, that we are strangers to any influence but that of unbiased reason.

It would be strange, that a subject, which has roused in turn all the passions of the country, should be discussed without the interference of any of our own. We are men, and, therefore, not exempt from those passions: as citizens and representatives, we feel the interests that must excite them. The hazard of great interests cannot fail to agitate strong passions. We are not disinterested; it is impossible we should be dispassionate. The warmth of such feelings may becloud the judgment, and, for a time, pervert the understanding. But the public sensibility, and our own, has sharpened the spirit of inquiry, and given an animation to the debate. The public attention has been quickened to mark the progress of the discussion, and its judgment, often hasty and erroneous on first impressions, has become solid and enlightened at last. Our result will, I hope, on that account, be the safer and more mature, as well as more accordant with that of the nation. The only constant agents in political affairs are the passions of men. Shall we complain of our nature—shall we say that man ought to have been made otherwise? It is right already, because HE, from whom we derive our nature, ordained it so; and because thus made and thus acting, the cause of truth and the public good is the more surely promoted.

But an attempt has been made to produce an influence of a nature more stubborn, and more unfriendly to truth. It is very unfairly pretended, that the constitutional right of this house is at stake, and to be asserted and preserved only by a vote in the negative. We hear it said, that this is a struggle for liberty, a manly resistance against the design to nullify this assembly, and to make it a cipher in the government: that the president and senate, the numerous meetings in the cities, and the influence of the general alarm of the country, are the agents and instruments of a scheme of coercion and terror, to force the treaty down our throats, though we loathe it, and in spite of the clearest convictions of duty and conscience.

It is necessary to pause here and inquire, whether suggestions of this kind be not unfair in their very texture and fabric, and pernicious in all their influences. They oppose an obstacle in the path of inquiry, not simply discouraging, but absolutely insurmountable. They will not yield to argument; for as they were not

reasoned up, they cannot be reasoned down. They are higher than a Chinese wall in truth's way, and built of materials that are indestructible. While this remains, it is vain to argue; it is vain to say to this mountain, Be thou cast into the sea. For, I ask of the men of knowledge of the world, whether they would not hold him for a blockhead, that should hope to prevail in an argument whose scope and object is to mortify the self-love of the expected proselyte? I ask, further, when such attempts have been made, have they not failed of success? The indignant heart repels a conviction that is believed to debase it.

The self-love of an individual is not warmer in its sense, nor more constant in its action, than what is called, in French, *l'esprit du corps*, or the self-love of an assembly; that jealous affection which a body of men is always found to bear towards its own prerogatives and power. I will not condemn this passion. Why should we urge an unmeaning censure, or yield to groundless fears that truth and duty will be abandoned, because men in a public assembly are still men, and feel that *esprit du corps* which is one of the laws of their nature? Still less should we despond or complain, if we reflect, that this very spirit is a guardian instinct, that watches over the life of this assembly. It cherishes the principle of self-preservation, and without its existence, and its existence with all the strength we see it possess, the privileges of the representatives of the people, and mediately the liberties of the people, would not be guarded, as they are, with a vigilance that never sleeps, and an unrelaxing constancy and courage.

If the consequences, most unfairly attributed to the vote in the affirmative, were not chimerical, and worse, for they are deceptive, I should think it a reproach to be found even moderate in my zeal to assert the constitutional powers of this assembly; and whenever they shall be in real danger, the present occasion affords proof, that there will be no want of advocates and champions.

Indeed, so prompt are these feelings, and, when once roused, so difficult to pacify, that if we could prove the alarm was groundless, the prejudice against the appropriations may remain on the mind, and it may even pass for an act of prudence and duty to negative a measure which was lately believed by ourselves, and may hereafter be misconceived by others, to encroach upon the powers of the house. Principles that bear a remote affinity with usurpation on those powers will be rejected, not merely as errors, but as wrongs. Our sensibilities will shrink from a post where it is possible they may be wounded, and be inflamed by the slightest suspicion of an assault.

While these prepossessions remain, all argument is useless. It may be heard with the ceremony of attention, and lavish its own

resources, and the patience it wearies, to no manner of purpose. The ears may be open; but the mind will remain locked up, and every pass to the understanding guarded.

Unless, therefore, this jealous and repulsive fear for the rights of the house can be allayed, I will not ask a hearing.

I cannot press this topic too far; I cannot address myself with too much emphasis to the magnanimity and candor of those who sit here, to suspect their own feelings, and, while they do, to examine the grounds of their alarm. I repeat it, we must conquer our persuasion, that this body has an interest in one side of the question more than the other, before we attempt to surmount our objections. On most subjects, and solemn ones too, perhaps in the most solemn of all, we form our creed more from inclination than evidence.

Let me expostulate with gentlemen to admit, if it be only by way of supposition, and for a moment, that it is barely possible they have yielded too suddenly to their alarms for the powers of this house; that the addresses which have been made with such variety of forms, and with so great dexterity in some of them, to all that is prejudice and passion in the heart, are either the effects or the instruments of artifice and deception, and then let them see the subject once more in its singleness and simplicity.

It will be impossible, on taking a fair review of the subject, to justify the passionate appeals that have been made to us to struggle for our liberties and rights, and the solemn exhortations to reject the proposition, said to be concealed in that on your table, to surrender them forever. In spite of this mock solemnity, I demand, if the house will not concur in the measure to execute the treaty, what other course shall we take? How many ways of proceeding lie open before us?

In the nature of things there are but three; we are either to make the treaty, to observe it, or break it. It would be absurd to say we will do neither. If I may repeat a phrase already so much abused, we are under coercion to do one of them, and we have no power, by the exercise of our discretion, to prevent the consequences of a choice.

By refusing to act, we choose. The treaty will be broken and fall to the ground. Where is the fitness, then, of replying to those who urge upon the house the topics of duty and policy, that they attempt to force the treaty down, and to compel this assembly to renounce its discretion, and to degrade itself to the rank of a blind and passive instrument in the hands of the treaty-making power? In case we reject the appropriation, we do not secure any greater liberty of action, we gain no safer shelter than before from the consequences of the decision. Indeed, they are not to be evaded. It is neither just nor manly to complain that the treaty-making

power has produced this coercion to act. It is not the art or the despotism of that power—it is the nature of things that compels. Shall we, dreading to become the blind instruments of power, yield ourselves the blinder dupes of mere sounds of imposture? Yet that word, that empty word, coercion, has given scope to an eloquence, that, one would imagine, could not be tired, and did not choose to be quieted.

Let us examine still more in detail the alternatives that are before us, and we shall scarcely fail to see, in still stronger lights, the futility of our apprehensions for the power and liberty of the house.

If, as some have suggested, the thing called a treaty is incomplete—if it has no binding force or obligation—the first question is, Will this House complete the instrument, and, by concurring, impart to it that force which it wants?

The doctrine has been avowed, that the treaty, though formally ratified by the executive power of both nations, though published as a law for our own by the president's proclamation, is still a mere proposition submitted to this assembly, no way distinguishable, in point of authority or obligation, from a motion for leave to bring in a bill, or any other original act of ordinary legislation. This doctrine, so novel in our country, yet so dear to many, precisely for the reason, that, in the contention for power, victory is always dear, is obviously repugnant to the very terms as well as the fair interpretation of our own resolutions (Mr. Blount's). We declare, that the treaty-making power is exclusively vested in the president and senate, and not in this house. Need I say, that we fly in the face of that resolution, when we pretend, that the acts of that power are not valid until we have concurred in them? It would be nonsense, or worse, to use the language of the most glaring contradiction, and to claim a share in a power which we at the same time disclaim as exclusively vested in other departments.

What can be more strange than to say, that the compacts of the president and senate with foreign nations are treaties, without our agency, and yet those compacts want all power and obligation, until they are sanctioned by our concurrence? It is not my design, in this place, if at all, to go into the discussion of this part of the subject. I will, at least for the present, take it for granted, that this monstrous opinion stands in little need of remark, and if it does, lies almost out of the reach of refutation.

But, say those who hide the absurdity under the cover of ambiguous phrases, have we no discretion? and if we have, are we not to make use of it in judging of the expediency or inexpediency of the treaty? Our resolution claims that privilege, and we cannot surrender it without equal inconsistency and breach of duty.

If there be any inconsistency in the case, it lies, not in making the appropriations for the treaty, but in the resolution itself (Mr. Blount's). Let us examine it more nearly. A treaty is a bargain between nations, binding in good faith; and what makes a bargain? The assent of the contracting parties. We allow that the treaty power is not in this house; this house has no share in contracting, and is not a party: of consequence, the president and senate alone may make a treaty that is binding in good faith. We claim, however, say the gentlemen, a right to judge of the expediency of treaties; that is the constitutional province of our discretion. Be it so. What follows? Treaties, when adjudged by us to be inexpedient, fall to the ground, and the public faith is not hurt. This, incredible and extravagant as it may seem, is asserted. The amount of it, in plainer language, is this—the president and senate are to make national bargains, and this house has nothing to do in making them. But bad bargains do not bind this house, and, of inevitable consequence, do not bind the nation. When a national bargain, called a treaty, is made, its binding force does not depend upon the making, but upon our opinion that it is good. As our opinion on the matter can be known and declared only by ourselves, when sitting in our legislative capacity, the treaty, though ratified, and, as we choose to term it, made, is hung up in suspense, till our sense is ascertained. We condemn the bargain, and it falls, though, as we say, our faith does not. We approve a bargain as expedient, and it stands firm, and binds the nation. Yet, even in this latter case, its force is plainly not derived from the ratification by the treaty-making power, but from our approbation. Who will trace these inferences, and pretend that we have no share, according to the argument, in the treaty-making power? These opinions, nevertheless, have been advocated with infinite zeal and perseverance. Is it possible that any man can be hardy enough to avow them, and their ridiculous consequences?

Let me hasten to suppose the treaty is considered as already made, and then the alternative is fairly presented to the mind, whether we will observe the treaty or break it. This, in fact, is the naked question.

If we choose to observe it with good faith, our course is obvious. Whatever is stipulated to be done by the nation, must be complied with. Our agency, if it should be requisite, cannot be properly refused. And I do not see why it is not as obligatory a rule of conduct for the legislative as for the courts of law.

I cannot lose this opportunity to remark, that the coercion, so much dreaded and declaimed against, appears at length to be no more than the authority of principles, the despotism of duty. Gentlemen complain we are forced to act in this way; we are forced

to swallow the treaty. It is very true, unless we claim the liberty of abuse, the right to act as we ought not. There is but one right way open for us; the laws of morality and good faith have fenced up every other. What sort of liberty is that which we presume to exercise against the authority of those laws? It is for tyrants to complain, that principles are restraints, and that they have no liberty, so long as their despotism has limits. These principles will be unfolded by examining the remaining question:—

Shall we break the treaty?

The treaty is bad, fatally bad, is the cry. It sacrifices the interest, the honor, the independence of the United States, and the faith of our engagements to France. If we listen to the clamor of party intemperance, the evils are of a number not to be counted, and of a nature not to be borne, even in idea. The language of passion and exaggeration may silence that of sober reason in other places; it has not done it here. The question here is, whether the treaty be really so very fatal as to oblige the nation to break its faith. I admit that such a treaty ought not to be executed. I admit that self-preservation is the first law of society, as well as of individuals. It would, perhaps, be deemed an abuse of terms to call that a treaty, which violates such a principle. I waive also, for the present, any inquiry, what departments shall represent the nation, and annul the stipulations of a treaty. I content myself with pursuing the inquiry, whether the nature of this compact be such as to justify our refusal to carry it into effect. A treaty is the promise of a nation. Now, promises do not always bind him that makes them.

But I lay down two rules, which ought to guide us in this case. The treaty must appear to be bad, not merely in the petty details, but in its character, principle, and mass. And, in the next place, this ought to be ascertained by the decided and general concurrence of the enlightened public. I confess there seems to be something very like ridicule thrown over the debate by the discussion of the articles in detail.

The undecided point is, shall we break our faith? And while our country and enlightened Europe await the issue with more than curiosity, we are employed to gather piecemeal, and article by article, from the instrument, a justification for the deed by trivial calculations of commercial profit and loss. This is little worthy of the subject, of this body, or of the nation. If the treaty is bad, it will appear to be so in its mass. Evil to a fatal extreme, if that be its tendency, requires no proof; it brings it. Extremes speak for themselves, and make their own law. What if the direct voyage of American ships to Jamaica, with horses or lumber, might net one or two *per centum* more than the present trade to Suri-

nam; would the proof of the fact avail any thing in so grave a question as the violation of the public engagements?

It is in vain to allege, that our faith, plighted to France, is violated by this new treaty. Our prior treaties are expressly saved from the operation of the British treaty. And what do those mean who say, that our honor was forfeited by treating at all, and especially by such a treaty? Justice, the laws and practice of nations, a just regard for peace as a duty to mankind, and the known wish of our citizens, as well as that self-respect which required it of the nation to act with dignity and moderation, all these forbade an appeal to arms, before we had tried the effect of negotiation. The honor of the United States was saved, not forfeited, by treating. The treaty itself, by its stipulations for the posts, for indemnity, and for a due observation of our neutral rights, has justly raised the character of the nation. Never did the name of America appear in Europe with more lustre than upon the event of ratifying this instrument. The fact is of a nature to overcome all contradiction.

But the independence of the country—we are colonists again. This is the cry of the very men who tell us, that France will resent our exercise of the rights of an independent nation to adjust our wrongs with an aggressor, without giving her the opportunity to say those wrongs shall subsist and shall not be adjusted. This is an admirable specimen of the spirit of independence. The treaty with Great Britain, it cannot be denied, is unfavorable to this strange sort of independence.

Few men of any reputation for sense, among those who say the treaty is bad, will put that reputation so much at hazard as to pretend that it is so extremely bad as to warrant and require a violation of the public faith. The proper ground of the controversy, therefore, is really unoccupied by the opposers of the treaty; as the very hinge of the debate is on the point, not of its being good or otherwise, but whether it is intolerably and fatally pernicious. If loose and ignorant declaimers have any where asserted the latter idea, it is too extravagant, and too solidly refuted, to be repeated here. Instead of any attempt to expose it still further, I will say, and I appeal with confidence to the candor of many opposers of the treaty to acknowledge, that if it had been permitted to go into operation silently, like our other treaties, so little alteration of any sort would be made by it in the great mass of our commercial and agricultural concerns, that it would not be generally discovered by its effects to be in force, during the term for which it was contracted. I place considerable reliance on the weight men of candor will give to this remark, because I believe it to be true, and little short of undeniable. When the panic dread of the treaty shall cease, as it certainly must, it will be seen through another medium.

Those who shall make search into the articles for the cause of their alarms, will be so far from finding stipulations that will operate fatally, they will discover few of them that will have any lasting operation at all. Those which relate to the disputes between the two countries, will spend their force upon the subjects in dispute, and extinguish them. The commercial articles are more of a nature to confirm the existing state of things than to change it. The treaty alarm was purely an address to the imagination and prejudices of the citizens, and not on that account the less formidable. Objections that proceed upon error, in fact or calculation, may be traced and exposed; but such as are drawn from the imagination or addressed to it, elude definition, and return to domineer over the mind, after having been banished from it by truth.

I will not so far abuse the momentary strength that is lent to me by the zeal of the occasion, as to enlarge upon the commercial operation of the treaty. I proceed to the second proposition, which I have stated as indispensably requisite to a refusal of the performance of a treaty—will the state of public opinion justify the deed?

No government, not even a despotism, will break its faith without some pretext; and it must be plausible, it must be such as will carry the public opinion along with it. Reasons of policy, if not of morality, dissuade even Turkey and Algiers from breaches of treaty in mere wantonness of perfidy, in open contempt of the reproaches of their subjects. Surely, a popular government will not proceed more arbitrarily as it is more free; nor with less shame or scruple in proportion as it has better morals. It will not proceed against the faith of treaties at all, unless the strong and decided sense of the nation shall pronounce, not simply that the treaty is not advantageous, but that it ought to be broken and annulled. Such a plain manifestation of the sense of the citizens is indispensably requisite; first, because, if the popular apprehensions be not an infallible criterion of the disadvantages of the instrument, their acquiescence in the operation of it is an irrefragable proof, that the extreme case does not exist, which alone could justify our setting it aside.

In the next place, this approving opinion of the citizens is requisite, as the best preventive of the ill consequences of a measure always so delicate, and often so hazardous. Individuals would, in that case at least, attempt to repel the opprobrium that would be thrown upon congress by those who will charge it with perfidy. They would give weight to the testimony of facts, and the authority of principles, on which the government would rest its vindication. And if war should ensue upon the violation, our citizens would not be divided from their government, nor the ardor of their

courage be chilled by the consciousness of injustice, and the sense of humiliation—that sense which makes those despicable who know they are despised.

I add a third reason, and with me it has a force that no words of mine can augment, that a government, wantonly refusing to fulfil its engagements, is the corrupter of its citizens. Will the laws continue to prevail in the hearts of the people, when the respect that gives them efficacy is withdrawn from the legislators? How shall we punish vice while we practise it? We have not force, and vain will be our reliance, when we have forfeited the resources of opinion. To weaken government and to corrupt morals are effects of a breach of faith not to be prevented; and from effects they become causes, producing, with augmented activity, more disorder and more corruption; order will be disturbed and the life of the public liberty shortened.

And who, I would inquire, is hardy enough to pretend, that the public voice demands the violation of the treaty? The evidence of the sense of the great mass of the nation is often equivocal; but when was it ever manifested with more energy and precision than at the present moment? The voice of the people is raised against the measure of refusing the appropriations. If gentlemen should urge, nevertheless, that all this sound of alarm is a counterfeit expression of the sense of the public, I will proceed to other proofs. If the treaty is ruinous to our commerce, what has blinded the eyes of the merchants and traders? Surely they are not enemies to trade, or ignorant of their own interests. Their sense is not so liable to be mistaken as that of a nation, and they are almost unanimous. The articles, stipulating the redress of our injuries by captures on the sea, are said to be delusive. By whom is this said? The very men, whose fortunes are staked upon the competency of that redress, say no such thing. They wait with anxious fear lest you should annul that compact on which all their hopes are rested.

Thus we offer proof, little short of absolute demonstration, that the voice of our country is raised not to sanction, but to deprecate the non-performance of our engagements. It is not the nation, it is one, and but one branch of the government that proposes to reject them. With this aspect of things, to reject is an act of desperation.

I shall be asked why a treaty so good in some articles, and so harmless in others, has met with such unrelenting opposition, and how the clamors against it from New Hampshire to Georgia can be accounted for. The apprehensions so extensively diffused, on its first publication, will be vouched as proof, that the treaty is bad, and that the people hold it in abhorrence.

I am not embarrassed to find the answer to this insinuation.

Certainly a foresight of its pernicious operation could not have created all the fears that were felt or affected. The alarm spread faster than the publication of the treaty. There were more critics than readers. Besides, as the subject was examined, those fears have subsided.

The movements of passion are quicker than those of the understanding. We are to search for the causes of first impressions, not in the articles of this obnoxious and misrepresented instrument, but in the state of the public feeling.

The fervor of the revolutionary war had not entirely cooled, nor its controversies ceased, before the sensibilities of our citizens were quickened with a tenfold vivacity, by a new and extraordinary subject of irritation. One of the two great nations of Europe underwent a change which has attracted all our wonder, and interested all our sympathies. Whatever they did, the zeal of many went with them, and often went to excess. These impressions met with much to inflame, and nothing to restrain them. In our newspapers, in our feasts, and some of our elections, enthusiasm was admitted a merit, a test of patriotism, and that made it contagious. In the opinion of party, we could not love or hate enough. I dare say, in spite of all the obloquy it may provoke, we were extravagant in both. It is my right to avow that passions so impetuous, enthusiasm so wild, could not subsist without disturbing the sober exercise of reason, without putting at risk the peace and precious interests of our country. They were hazarded. I will not exhaust the little breath I have left, to say how much, nor by whom, or by what means they were rescued from the sacrifice. Shall I be called upon to offer my proofs? They are here. They are every where. No one has forgotten the proceedings of 1794. No one has forgotten the captures of our vessels, and the imminent danger of war. The nation thirsted not merely for reparation, but vengeance. Suffering such wrongs, and agitated by such resentments, was it in the power of any words of compact, or could any parchment with its seals prevail at once to tranquillize the people? It was impossible. Treaties in England are seldom popular, and least of all when the stipulations of amity succeed to the bitterness of hatred. Even the best treaty, though nothing be refused, will choke resentment, but not satisfy it. Every treaty is as sure to disappoint extravagant expectations as to disarm extravagant passions. Of the latter, hatred is one that takes no bribes. They who are animated by the spirit of revenge will not be quieted by the possibility of profit.

Why do they complain, that the West Indies are not laid open? Why do they lament, that any restriction is stipulated on the commerce of the East Indies? Why do they pretend, that if they reject this, and insist upon more, more will be accomplished?

Let us be explicit—more would not satisfy. If all was granted, would not a treaty of amity with Great Britain still be obnoxious? Have we not this instant heard it urged against our envoy, that he was not ardent enough in his hatred of Great Britain? A treaty of amity is condemned because it was not made by a foe, and in the spirit of one. The same gentleman, at the same instant, repeats a very prevailing objection, that no treaty should be made with the enemy of France. No treaty, exclaim others, should be made with a monarch or a despot: there will be no naval security while those sea-robbers domineer on the ocean: their den must be destroyed: that nation must be extirpated.

I like this, sir, because it is sincerity. With feelings such as these, we do not pant for treaties. Such passions seek nothing, and will be content with nothing, but the destruction of their object. If a treaty left king George his island, it would not answer; not if he stipulated to pay rent for it. It has been said, the world ought to rejoice if Britain was sunk in the sea; if where there are now men, and wealth, and laws, and liberty, there was no more than a sand bank for the sea-monsters to fatten on; a space for the storms of the ocean to mingle in conflict.

I object nothing to the good sense or humanity of all this. I yield the point, that this is a proof that the age of reason is in progress. Let it be philanthropy, let it be patriotism, if you will; but it is no indication that any treaty would be approved. The difficulty is not to overcome the objections to the terms; it is to restrain the repugnance to any stipulations of amity with the party.

Having alluded to the rival of Great Britain, I am not unwilling to explain myself; I affect no concealment, and I have practised none. While those two great nations agitate all Europe with their quarrels, they will both equally desire, and with any chance of success, equally endeavor to create, an influence in America. Each will exert all its arts to range our strength on its own side. How is this to be effected? Our government is a democratical republic. It will not be disposed to pursue a system of politics, in subservience to either France or England, in opposition to the general wishes of the citizens; and, if congress should adopt such measures, they would not be pursued long, nor with much success. From the nature of our government, popularity is the instrument of foreign influence. Without it, all is labor and disappointment. With that mighty auxiliary, foreign intrigue finds agents, not only volunteers, but competitors for employment, and any thing like reluctance is understood to be a crime. Has Britain this means of influence? Certainly not. If her gold could buy adherents, their becoming such would deprive them of all political power and importance. They would not wield popularity as a weapon, but

would fall under it. Britain has no influence, and, for the reasons just given, can have none. She has enough; and God forbid she ever should have more. France, possessed of popular enthusiasm, of party attachments, has had, and still has, too much influence on our politics—any foreign influence is too much, and ought to be destroyed. I detest the man and disdain the spirit that can bend to a mean subserviency to the views of any nation. It is enough to be Americans. That character comprehends our duties, and ought to engross our attachments.

But I would not be misunderstood. I would not break the alliance with France; I would not have the connection between the two countries even a cold one. It should be cordial and sincere; but I would banish that influence, which, by acting on the passions of the citizens, may acquire a power over the government.

It is no bad proof of the merit of the treaty, that, under all these unfavorable circumstances, it should be so well approved. In spite of first impressions, in spite of misrepresentation and party clamor, inquiry has multiplied its advocates; and at last the public sentiment appears to me clearly preponderating to its side.

On the most careful review of the several branches of the treaty, those which respect political arrangements, the spoliations on our trade, and the regulation of commerce, there is little to be apprehended. The evil, aggravated as it is by party, is little in degree, and short in duration; two years from the end of the European war. I ask, and I would ask the question significantly, What are the inducements to reject the treaty? What great object is to be gained, and fairly gained by it? If, however, as to the merits of the treaty, candor should suspend its approbation, what is there to hold patriotism a moment in balance, as to the violation of it? Nothing; I repeat confidently, nothing. There is nothing before us in that event but confusion and dishonor.

But before I attempt to develop those consequences, I must put myself at ease by some explanation.

Nothing is worse received among men than the confutation of their opinions; and, of these, none are more dear or more vulnerable than their political opinions. To say that a proposition leads to shame and ruin, is almost equivalent to a charge that the supporters of it intend to produce them. I throw myself upon the magnanimity and candor of those who hear me. I cannot do justice to my subject without exposing, as forcibly as I can, all the evils in prospect. I readily admit, that in every science, and most of all in politics, error springs from other sources than the want of sense or integrity. I despise indiscriminate professions of candor and respect. There are individuals opposed to me of whom I am not bound to say any thing. But of many, perhaps of a majority

of the opposers of the appropriations, it gives me pleasure to declare, they possess my confidence and regard. There are among them individuals for whom I entertain a cordial affection.

The consequences of refusing to make provision for the treaty are not all to be foreseen. By rejecting, vast interests are committed to the sport of the winds. Chance becomes the arbiter of events, and it is forbidden to human foresight to count their number, or measure their extent. Before we resolve to leap into this abyss, so dark and so profound, it becomes us to pause and reflect upon such of the dangers as are obvious and inevitable. If this assembly should be wrought into a temper to defy these consequences, it is vain, it is deceptive, to pretend that we can escape them. It is worse than weakness to say, that as to public faith our vote has already settled the question. Another tribunal than our own is already erected. The public opinion, not merely of our own country, but of the enlightened world, will pronounce a judgment that we cannot resist, that we dare not even affect to despise.

Well may I urge it to men, who know the worth of character, that it is no trivial calamity to have it contested. Refusing to do what the treaty stipulates shall be done, opens the controversy. Even if we should stand justified at last, a character that is vindicated is something worse than it stood before, unquestioned and unquestionable. Like the plaintiff in an action of slander, we recover a reputation disfigured by invective, and even tarnished by too much handling. In the combat for the honor of the nation, it may receive some wounds, which, though they should heal, will leave scars. I need not say, for surely the feelings of every bosom have anticipated, that we cannot guard this sense of national honor, this everlasting fire which alone keeps patriotism warm in the heart, with a sensibility too vigilant and jealous.

If, by executing the treaty, there is no possibility of dishonor, and if, by rejecting, there is some foundation for doubt, and for reproach, it is not for me to measure, it is for your own feelings to estimate, the vast distance that divides the one side of the alternative from the other.

If, therefore, we should enter on the examination of the question of duty and obligation with some feelings of prepossession, I do not hesitate to say, they are such as we ought to have: it is an after-inquiry to determine whether they are such as ought finally to be resisted.

The resolution (Mr. Blount's) is less explicit than the constitution. Its patrons should have made it more so, if possible, if they had any doubts, or meant the public should entertain none. Is it the sense of that vote, as some have insinuated, that we claim a right, for any cause or no cause at all but our own sovereign

will and pleasure, to refuse to execute, and thereby to annul the stipulations of a treaty—that we have nothing to regard but the expediency or inexpediency of the measure, being absolutely free from all obligation by compact to give it our sanction? A doctrine so monstrous, so shameless, is refuted by being avowed. There are no words you could express it in that would not convey both confutation and reproach. It would outrage the ignorance of the tenth century to believe; it would baffle the casuistry of a papal council to vindicate. I venture to say it is impossible: no less impossible than that we should desire to assert the scandalous privilege of being free after we have pledged our honor.

It is doing injustice to the resolution of the house (which I dislike on many accounts) to strain the interpretation of it to this extravagance. The treaty-making power is declared by it to be vested exclusively in the president and senate. Will any man in his senses affirm, that it can be a treaty before it has any binding force or obligation? If it has no binding force upon us, it has none upon Great Britain. Let candor answer, Is Great Britain free from any obligation to deliver the posts in June, and are we willing to signify to her that we think so? Is it with that nation a question of mere expediency or inexpediency to do it, and that too even after we have done all that depends upon us to give the treaty effect? No sober man believes this. No one, who would not join in condemning the faithless proceedings of that nation, if such a doctrine should be avowed and carried into practice—and why complain, if Great Britain is not bound? There can be no breach of faith where none is plighted. I shall be told that she is bound. Surely it follows, that if she is bound to performance, our nation is under a similar obligation; if both parties be not obliged, neither is obliged; it is no compact, no treaty. This is a dictate of law and common sense, and every jury in the country has sanctioned it on oath.

It cannot be a treaty, and yet no treaty; a bargain, yet no promise. If it is a promise, I am not to read a lecture to show why an honest man will keep his promise.

The reason of the thing, and the words of the resolution of the house, imply, that the United States engage their good faith in a treaty. We disclaim, say the majority, the treaty-making power; we of course disclaim (they ought to say) every doctrine that would put a negative upon the doings of that power. It is the prerogative of folly alone to maintain both sides of a proposition.

Will any man affirm the American nation is engaged by good faith to the British nation; but that engagement is nothing to this house? Such a man is not to be reasoned with. Such a doctrine is a coat of mail, that would turn the edge of all the weapons of argument, if they were sharper than a sword. Will it be im-

agined, the king of Great Britain and the president are mutually bound by the treaty, but the two nations are free?

It is one thing for this house to stand in a position that presents an opportunity to break the faith of America, and another to establish a principle that will justify the deed.

We feel less repugnance to believe that any other body is bound by obligation than our own. There is not a man here who does not say that Great Britain is bound by treaty. Bring it nearer home. Is the senate bound? Just as much as the house, and no more. Suppose the senate, as part of the treaty power, by ratifying a treaty on Monday, pledges the public faith to do a certain act. Then, in their ordinary capacity as a branch of the legislature, the senate is called upon on Tuesday to perform that act, for example, an appropriation of money—is the senate (so lately under obligation) now free to agree or disagree to the act? If the twenty ratifying senators should rise up and avow this principle, saying, "We struggle for liberty; we will not be ciphers, mere puppets," and give their votes accordingly, would not shame blister their tongues? would not infamy tingle in their ears? would not their country, which they had insulted and dishonored, though it should be silent and forgiving, be a revolutionary tribunal, a rack on which their own reflections would stretch them?

This, sir, is a cause that would be dishonored and betrayed, if I contented myself with appealing only to the understanding. It is too cold, and its processes are too slow for the occasion. I desire to thank God, that since he has given me an intellect so fallible, he has impressed upon me an instinct that is sure. On a question of shame and honor, reasoning is sometimes useless, and worse. I feel the decision in my pulse—if it throws no light upon the brain, it kindles a fire at the heart.

It is not easy to deny, it is impossible to doubt, that a treaty imposes an obligation on the American nation. It would be childish to consider the president and senate obliged, and the nation and the house free. What is the obligation—perfect or imperfect? If perfect, the debate is brought to a conclusion. If imperfect, how large a part of our faith is pawned? Is half our honor put at risk, and is that half too cheap to be redeemed? How long has this hair-splitting subdivision of good faith been discovered, and why has it escaped the researches of the writers on the law of nations? Shall we add a new chapter to that law, or insert this doctrine as a supplement to, or more properly a repeal of, the ten commandments?

The principles and the example of the British parliament have been alleged to coincide with the doctrine of those who deny the obligation of the treaty. I have not had the health to make very laborious researches into this subject. I will, however, sketch my

view of it. Several instances have been noticed: but the treaty of Utrecht is the only one that seems to be at all applicable. It has been answered, that the conduct of parliament, in that celebrated example, affords no sanction to our refusal to carry the treaty into effect. The obligation of the treaty of Utrecht has been understood to depend on the concurrence of parliament, as a condition to its becoming of force. If that opinion should, however, appear incorrect, still the precedent proves, not that the treaty of Utrecht wanted obligation, but that parliament disregarded it; a proof, not of the construction of the treaty-making power, but of the violation of a national engagement. Admitting, still further, that the parliament claimed and exercised its power, not as a breach of faith, but as a matter of constitutional right, I reply, that the analogy between parliament and congress totally fails. The nature of the British government may require and justify a course of proceeding in respect to treaties, that is unwarrantable here.

The British government is a mixed one. The king, at the head of the army, of the hierarchy, with an ample civil list, hereditary, unresponsible, and possessing the prerogative of peace and war, may be properly observed with some jealousy in respect to the exercise of the treaty-making power. It seems, and perhaps from a spirit of caution on this account, to be their doctrine, that treaties bind the nation, but are not to be regarded by the courts of law, until laws have been passed conformably to them. Our concurrence has expressly regulated the matter differently. The concurrence of parliament is necessary to treaties becoming laws in England, gentlemen say; and here the senate, representing the states, must concur in treaties. The constitution and the reason of the case make the concurrence of the senate as effectual as the sanction of parliament: and why not? The senate is an elective body, and the approbation of a majority of the states affords the nation as ample security against the abuse of the treaty-making power, as the British nation can enjoy in the control of parliament.

Whatever doubt there may be as to the parliamentary doctrine of the obligation of treaties in Great Britain (and perhaps there is some), there is none in their books, or their modern practice. Blackstone represents treaties as of the highest obligation, when ratified by the king; and for almost a century, there has been no instance of opposition by parliament to this doctrine. Their treaties have been uniformly carried into effect, although many have been ratified, of a nature most obnoxious to party, and have produced louder clamor than we have lately witnessed. The example of England, therefore, fairly examined, does not warrant—it dissuades us from a negative vote.

Gentlemen have said, with spirit, Whatever the true doctrine of

our constitution may be, Great Britain has no right to complain or to dictate an interpretation. The sense of the American nation, as to the treaty power, is to be received by all foreign nations. This is very true as a maxim; but the fact is against those who vouch it. The sense of the American nation is not as the vote of the house has declared it. Our claim to some agency in giving force and obligation to treaties is, beyond all kind of controversy, novel. The sense of the nation is probably against it. The sense of the government certainly is. The president denies it on constitutional grounds, and therefore cannot ever accede to our interpretation. The senate ratified the treaty, and cannot without dishonor adopt it, as I have attempted to show. Where, then, do they find the proof, that this is the American sense of the treaty-making power, which is to silence the murmurs of Great Britain? Is it because a majority of two or three, or at most of four or five, of this house will reject the treaty? Is it thus the sense of our nation is to be recognized? Our government may thus be stopped in its movements—a struggle for power may thus commence, and the event of the conflict may decide who is the victor, and the quiet possessor of the treaty power. But, at present, it is beyond all credibility, that our vote, by a bare majority, should be believed to do any thing better than to imbitter our divisions, and to tear up the settled foundations of our departments.

If the obligation of a treaty be complete, I am aware that cases sometimes exist which will justify a nation in refusing a compliance. Are our liberties, gentlemen demand, to be bartered away by a treaty,—and is there no remedy? There is. Extremes are not to be supposed; but, when they happen, they make the law for themselves. No such extreme can be pretended in this instance; and if it existed, the authority it would confer to throw off the obligation would rest where the obligation itself resides—in the nation. This house is not the nation—it is not the whole delegated authority of the nation. Being only a part of that authority, its right to act for the whole society obviously depends on the concurrence of the other two branches. If they refuse to concur, a treaty, once made, remains in full force, although a breach on the part of a foreign nation would confer upon our own a right to forbear the execution. I repeat it; even in that case the act of this house cannot be admitted as the act of the nation; and if the president and senate should not concur, the treaty would be obligatory.

I put a case that will not fail to produce conviction. Our treaty with France engages that free bottoms shall make free goods; and how has it been kept? As such engagements will ever be in time of war. France has set it aside, and pleads imperious necessity. We have no navy to enforce the observance of such articles, and paper barriers are weak against the violence of those

who are on the scramble for enemies' goods on the high seas. The breach of any article of a treaty by one nation gives an undoubted right to the other to renounce the whole treaty. But has one branch of the government that right, or must it reside with the whole authority of the nation? What if the senate should resolve, that the French treaty is broken, and therefore null and of no effect? The answer is obvious; you would deny their sole authority. That branch of the legislature has equal power in this regard with the house of representatives. One branch alone cannot express the will of the nation.

A right to annul a treaty, because a foreign nation has broken its articles, is only like the case of a sufficient cause to repeal a law. In both cases the branches of our government must concur in the orderly way, or the law and the treaty will remain.

The very cases supposed by my adversaries in this argument conclude against themselves. They will persist in confounding ideas that should be kept distinct; they will suppose that the house of representatives has no power unless it has all power. The house is nothing if it be not the whole government—the nation.

On every hypothesis, therefore, the conclusion is not to be resisted; we are either to execute this treaty, or break our faith.

To expatiate on the value of public faith may pass with some men for declamation—to such men I have nothing to say. To others I will urge—can any circumstance mark upon a people more turpitude and debasement? Can any thing tend more to make men think themselves mean, or degrade to a lower point their estimation of virtue and their standard of action?

It would not merely demoralize mankind; it tends to break all the ligaments of society, to dissolve that mysterious charm which attracts individuals to the nation, and to inspire in its stead a repulsive sense of shame and disgust.

What is patriotism? Is it a narrow affection for the spot where a man was born? Are the very clods where we tread entitled to this ardent preference because they are greener? No, sir; this is not the character of the virtue, and it soars higher for its object. It is an extended self-love, mingling with all the enjoyments of life, and twisting itself with the minutest filaments of the heart. It is thus we obey the laws of society, because they are the laws of virtue. In their authority we see, not the array of force and terror, but the venerable image of our country's honor. Every good citizen makes that honor his own, and cherishes it not only as precious, but as sacred. He is willing to risk his life in its defence, and is conscious that he gains protection while he gives it. For what rights of a citizen will be deemed inviolable when a state renounces the principles that constitute their security? Or, if his life should not be invaded, what would its enjoyments be in a

country odious in the eyes of strangers and dishonored in his own? Could he look with affection and veneration to such a country as his parent? The sense of having one would die within him; he would blush for his patriotism, if he retained any, and justly, for it would be a vice. He would be a banished man in his native land.

I see no exception to the respect that is paid among nations to the law of good faith. If there are cases, in this enlightened period, when it is violated, there are none when it is decried. It is the philosophy of politics, the religion of governments. It is observed by barbarians—a whiff of tobacco smoke, or a string of beads, gives not merely binding force, but sanctity to treaties. Even in Algiers, a truce may be bought for money; but, when ratified, even Algiers is too wise, or too just, to disown and annul its obligation. Thus, we see, neither the ignorance of savages, nor the principles of an association for piracy and rapine, permit a nation to despise its engagements. If, sir, there could be a resurrection from the foot of the gallows, if the victims of justice could live again, collect together, and form a society, they would, however loath, soon find themselves obliged to make justice, that justice under which they fell, the fundamental law of their state. They would perceive it was their interest to make others respect, and they would therefore soon pay some respect themselves to the obligations of good faith.

It is painful, I hope it is superfluous, to make even the supposition, that America should furnish the occasion of this opprobrium. No, let me not even imagine, that a republican government, sprung, as our own is, from a people enlightened and uncorrupted, a government whose origin is right, and whose daily discipline is duty, can, upon solemn debate, make its option to be faithless—can dare to act what despots dare not avow, what our own example evinces, the states of Barbary are unsuspected of. No, let me rather make the supposition, that Great Britain refuses to execute the treaty, after we have done every thing to carry it into effect. Is there any language of reproach pungent enough to express your commentary on the fact? What would you say, or rather what would you not say? Would you not tell them, wherever an Englishman might travel, shame would stick to him—he would disown his country. You would exclaim, England, proud of your wealth, and arrogant in the possession of power—blush for these distinctions, which become the vehicles of your dishonor. Such a nation might truly say to corruption, Thou art my father, and to the worm, Thou art my mother and my sister. We should say of such a race of men, their name is a heavier burden than their debt.

I can scarcely persuade myself to believe, that the consideration

I have suggested requires the aid of any auxiliary. But, unfortunately, auxiliary arguments are at hand. Five millions of dollars, and probably more, on the score of spoliations committed on our commerce, depend upon the treaty. The treaty offers the only prospect of indemnity. Such redress is promised as the merchants place some confidence in. Will you interpose and frustrate that hope; leaving to many families nothing but beggary and despair? It is a smooth proceeding to take a vote in this body: it takes less than half an hour to call the yeas and nays and reject the treaty. But what is the effect of it? What, but this? the very men formerly so loud for redress; such fierce champions, that even to ask for justice was too mean and too slow, now turn their capricious fury upon the sufferers, and say, by their vote, to them and their families, No longer eat bread; petitioners, go home and starve; we cannot satisfy your wrongs and our resentments.

Will you pay the sufferers out of the treasury? No. The answer was given two years ago, and appears on our journals. Will you give them letters of marque and reprisal to pay themselves by force? No; that is war. Besides, it would be an opportunity for those who have already lost much to lose more. Will you go to war to avenge their injury? If you do, the war will leave you no money to indemnify them. If it should be unsuccessful, you will aggravate existing evils; if successful, your enemy will have no treasure left to give our merchants; the first losses will be confounded with much greater, and be forgotten. At the end of a war there must be a negotiation, which is the very point we have already gained; and why relinquish it? And who will be confident that the terms of the negotiation, after a desolating war, would be more acceptable to another house of representatives, than the treaty before us? Members and opinions may be so changed, that the treaty would then be rejected for being what the present majority say it should be. Whether we shall go on making treaties and refusing to execute them, I know not. Of this I am certain, it will be very difficult to exercise the treaty-making power, on the new principles, with much reputation or advantage to the country.

The refusal of the posts (inevitable if we reject the treaty) is a measure too decisive in its nature to be neutral in its consequences. From great causes we are to look for great effects. A plain and obvious one will be, the price of the western lands will fall. Settlers will not choose to fix their habitation on a field of battle. Those who talk so much of the interest of the United States, should calculate how deeply it will be affected by rejecting the treaty; how vast a tract of wild land will almost cease to be property. This loss, let it be observed, will fall upon a fund expressly

devoted to sink the national debt. What, then, are we called upon to do? However the form of the vote and the protestations of many may disguise the proceeding, our resolution is in substance, and it deserves to wear the title of a resolution to prevent the sale of the western lands and the discharge of the public debt.

Will the tendency to Indian hostilities be contested by any one? Experience gives the answer. The frontiers were scourged with war till the negotiation with Great Britain was far advanced, and then the state of hostility ceased. Perhaps the public agents of both nations are innocent of fomenting the Indian war, and perhaps they are not. We ought not, however, to expect that neighboring nations, highly irritated against each other, will neglect the friendship of the savages; the traders will gain an influence and will abuse it; and who is ignorant that their passions are easily raised, and hardly restrained from violence? Their situation will oblige them to choose between this country and Great Britain, in case the treaty should be rejected. They will not be our friends, and at the same time the friends of our enemies.

But am I reduced to the necessity of proving this point? Certainly the very men who charged the Indian war on the detention of the posts, will call for no other proof than the recital of their own speeches. It is remembered with what emphasis, with what acrimony, they expatiated on the burden of taxes, and the drain of blood and treasure into the western country, in consequence of Britain's holding the posts. Until the posts are restored, they exclaimed, the treasury and the frontiers must bleed.

If any, against all these proofs, should maintain that the peace with the Indians will be stable without the posts, to them I will urge another reply. From arguments calculated to produce conviction, I will appeal directly to the hearts of those who hear me, and ask, whether it is not already planted there. I resort especially to the convictions of the western gentlemen, whether, supposing no posts and no treaty, the settlers will remain in security. Can they take it upon them to say, that an Indian peace, under these circumstances, will prove firm? No, sir: it will not be peace, but a sword: it will be no better than a lure to draw victims within the reach of the tomahawk.

On this theme, my emotions are unutterable. If I could find words for them—if my powers bore any proportion to my zeal—I would swell my voice to such a note of remonstrance, it should reach every log-house beyond the mountains. I would say to the inhabitants, Wake from your false security: your cruel dangers, your more cruel apprehensions, are soon to be renewed: the wounds, yet unhealed, are to be torn open again: in the day time, your path through the woods will be ambushed: the darkness of

midnight will glitter with the blaze of your dwellings. You are a father—the blood of your sons shall fatten your cornfield: you are a mother—the war-whoop shall wake the sleep of the cradle.

On this subject you need not suspect any deception on your feelings. It is a spectacle of horror, which cannot be overdrawn. If you have nature in your hearts, it will speak a language compared with which all I have said or can say will be poor and frigid.

Will it be whispered that the treaty has made me a new champion for the protection of the frontiers? It is known that my voice as well as vote have been uniformly given in conformity with the ideas I have expressed. Protection is the right of the frontiers; it is our duty to give it.

Who will accuse me of wandering out of the subject? Who will say that I exaggerate the tendencies of our measures? Will any one answer by a sneer, that all this is idle preaching? Will any one deny, that we are bound, and I would hope to good purpose, by the most solemn sanctions of duty, for the vote we give? Are despots alone to be reproached for unfeeling indifference to the tears and blood of their subjects? Are republicans unresponsible? Have the principles, on which you ground the reproach upon cabinets and kings, no practical influence, no binding force? Are they merely themes of idle declamation, introduced to decorate the morality of a newspaper essay, or to furnish pretty topics of harangue from the windows of that state-house? I trust it is neither too presumptuous nor too late to ask, Can you put the dearest interest of society at risk without guilt, and without remorse?

It is vain to offer as an excuse, that public men are not to be reproached for the evils that may happen to ensue from their measures. This is very true, where they are unforeseen or inevitable. Those I have depicted are not unforeseen: they are so far from inevitable, we are going to bring them into being by our vote. We choose the consequences, and become as justly answerable for them as for the measure that we know will produce them.

By rejecting the posts, we light the savage fires—we bind the victims. This day we undertake to render account to the widows and orphans whom our decision will make, to the wretches that will be roasted at the stake, to our country, and I do not deem it too serious to say, to conscience and to God. We are answerable, and if duty be any thing more than a word of imposture, if conscience be not a bugbear, we are preparing to make ourselves as wretched as our country.

There is no mistake in this case; there can be none. Experi-

ence has already been the prophet of events, and the cries of our future victims have already reached us. The western inhabitants are not a silent and uncomplaining sacrifice. The voice of humanity issues from the shade of their wilderness. It exclaims, that while one hand is held up to reject this treaty, the other grasps a tomahawk. It summons our imagination to the scenes that will open. It is no great effort of the imagination to conceive, that events so near are already begun. I can fancy that I listen to the yells of savage vengeance, and the shrieks of torture. Already they seem to sigh in the west wind—already they mingle with every echo from the mountains.

It is not the part of prudence to be inattentive to the tendencies of measures. Where there is any ground to fear that these will be pernicious, wisdom and duty forbid that we should underrate them. If we reject the treaty, will our peace be as safe as if we executed it with good faith? I do honor to the intrepid spirit of those who say it will. It was formerly understood to constitute the excellence of a man's faith to believe without evidence and against it.

But as opinions on this article are changed, and we are called to act for our country, it becomes us to explore the dangers that will attend its peace, and to avoid them if we can.

Few of us here, and fewer still in proportion of our constituents, will doubt, that, by rejecting, all those dangers will be aggravated.

The idea of war is treated as a bugbear. This levity is at least unseasonable, and most of all unbecoming some who resort to it.

Who has forgotten the philippics of 1794? The cry then was reparation—no envoy—no treaty—no tedious delays. Now, it seems, the passion subsides, or at least the hurry to satisfy it. Great Britain, say they, will not wage war upon us.

In 1794, it was urged by those who now say, no war, that if we built frigates, or resisted the piracies of Algiers, we could not expect peace. Now they give excellent comfort truly. Great Britain has seized our vessels and cargoes to the amount of millions; she holds the posts; she interrupts our trade, say they, as a neutral nation; and these gentlemen, formerly so fierce for redress, assure us, in terms of the sweetest consolation, Great Britain will bear all this patiently. But let me ask the late champions of our rights, will our nation bear it? Let others exult because the aggressor will let our wrongs sleep forever. Will it add—it is my duty to ask—to the patience and quiet of our citizens to see their rights abandoned? Will not the disappointment of their hopes, so long patronized by the government, now in the crisis of their being realized, convert all their passions into fury and despair?

Are the posts to remain forever in the possession of Great Britain? Let those who reject them, when the treaty offers them to our hands, say, if they choose, they are of no importance. If they are, will they take them by force? The argument I am urging would then come to a point. To use force is war. To talk of treaty again is too absurd. Posts and redress must come from voluntary good will, treaty or war.

The conclusion is plain, if the state of peace shall continue, so will the British possession of the posts.

Look again at this state of things. On the sea-coast, vast losses uncompensated; on the frontier, Indian war, actual encroachment on our territory; every where discontent—resentments tenfold more fierce because they will be impotent and humbled; national scorn and abasement.

The disputes of the old treaty of 1783, being left to rankle, will revive the almost extinguished animosities of that period. Wars, in all countries, and most of all in such as are free, arise from the impetuosity of the public feelings. The despotism of Turkey is often obliged by clamor to unsheath the sword. War might perhaps be delayed, but could not be prevented. The causes of it would remain, would be aggravated, would be multiplied, and soon become intolerable. More captures, more impressments would swell the list of our wrongs, and the current of our rage. I make no calculation of the arts of those whose employment it has been, on former occasions, to fan the fire. I say nothing of the foreign money and emissaries that might foment the spirit of hostility, because the state of things will naturally run to violence. With less than their former exertion, they would be successful.

Will our government be able to temper and restrain the turbulence of such a crisis? The government, alas! will be in no capacity to govern. A divided people—and divided councils! Shall we cherish the spirit of peace, or show the energies of war? Shall we make our adversary afraid of our strength, or dispose him, by the measures of resentment and broken faith, to respect our rights? Do gentlemen rely on the state of peace because both nations will be worse disposed to keep it; because injuries, and insults still harder to endure, will be mutually offered?

Such a state of things will exist, if we should long avoid war, as will be worse than war. Peace without security, accumulation of injury without redress, or the hope of it, resentment against the aggressor, contempt for ourselves, intestine discord and anarchy. Worse than this need not be apprehended, for if worse could happen, anarchy would bring it. Is this the peace gentlemen undertake with such fearless confidence to maintain? Is this the station of American dignity, which the high-spirited champions of our national independence and honor could endure—nay, which they are

anxious and almost violent to seize for the country? What is there in the treaty that could humble us so low? Are they the men to swallow their resentments, who so lately were choking with them? If, in the case contemplated by them, it should be peace, I do not hesitate to declare it ought not to be peace.

Is there any thing in the prospect of the interior state of the country to encourage us to aggravate the dangers of a war? Would not the shock of that evil produce another, and shake down the feeble and then unbraced structure of our government? Is this a chimera? Is it going off the ground of matter of fact to say, the rejection of the appropriation proceeds upon the doctrine of a civil war of the departments? Two branches have ratified a treaty, and we are going to set it aside. How is this disorder in the machine to be rectified? While it exists, its movements must stop, and when we talk of a remedy, is that any other than the formidable one of a revolutionary interposition of the people? And is this, in the judgment even of my opposers, to execute, to preserve the constitution and the public order? Is this the state of hazard, if not of convulsion, which they can have the courage to contemplate and to brave, or beyond which their penetration can reach and see the issue? They seem to believe, and they act as if they believed, that our union, our peace, our liberty are invulnerable and immortal—as if our happy state was not to be disturbed by our dissensions, and that we are not capable of falling from it by our unworthiness. Some of them have no doubt better nerves and better discernment than mine. They can see the bright aspects and happy consequences of all this array of horrors. They can see intestine discords, our government disorganized, our wrongs aggravated, multiplied and unredressed, peace with dishonor, or war without justice, union or resources, in "the calm lights of mild philosophy."

But whatever they may anticipate as the next measure of prudence and safety, they have explained nothing to the house. After rejecting the treaty, what is to be the next step? They must have foreseen what ought to be done; they have doubtless resolved what to propose. Why, then, are they silent? Dare they not avow their plan of conduct, or do they wait till our progress towards confusion shall guide them in forming it?

Let me cheer the mind, weary, no doubt, and ready to despond on this prospect, by presenting another, which it is yet in our power to realize. Is it possible for a real American to look at the prosperity of this country without some desire for its continuance, without some respect for the measures which, many will say, produced, and all will confess, have preserved it? Will he not feel some dread, that a change of system will reverse the scene? The

well-grounded fears of our citizens, in 1794, were removed by the treaty, but are not forgotten. Then they deemed war nearly inevitable, and would not this adjustment have been considered, at that day, as a happy escape from the calamity? The great interest and the general desire of our people was to enjoy the advantages of neutrality. This instrument, however misrepresented, affords America that inestimable security. The causes of our disputes are either cut up by the roots, or referred to a new negotiation after the end of the European war. This was gaining every thing, because it confirmed our neutrality, by which our citizens are gaining every thing. This alone would justify the engagements of the government. For, when the fiery vapors of the war lowered in the skirts of our horizon, all our wishes were concentred in this one, that we might escape the desolation of the storm. This treaty, like a rainbow on the edge of the cloud, marked to our eyes the space where it was raging, and afforded, at the same time, the sure prognostic of fair weather. If we reject it, the vivid colors will grow pale; it will be a baleful meteor, portending tempest and war.

Let us not hesitate, then, to agree to the appropriation to carry it into faithful execution. Thus we shall save the faith of our nation, secure its peace, and diffuse the spirit of confidence and enterprise that will augment its prosperity. The progress of wealth and improvement is wonderful, and some will think, too rapid. The field for exertion is fruitful and vast, and if peace and good government should be preserved, the acquisitions of our citizens are not so pleasing as the proofs of their industry, as the instruments of their future success. The rewards of exertion go to augment its power. Profit is every hour becoming capital. The vast crop of our neutrality is all seed-wheat, and is sown again to swell, almost beyond calculation, the future harvest of prosperity. And in this progress, what seems to be fiction is found to fall short of experience.

I rose to speak under impressions that I would have resisted if I could. Those who see me will believe, that the reduced state of my health has unfitted me, almost equally, for much exertion of body or mind. Unprepared for debate, by careful reflection in my retirement, or by long attention here, I thought the resolution I had taken to sit silent was imposed by necessity, and would cost me no effort to maintain. With a mind thus vacant of ideas, and sinking, as I really am, under a sense of weakness, I imagined the very desire of speaking was extinguished by the persuasion that I had nothing to say. Yet when I come to the moment of deciding the vote, I start back with dread from the edge of the pit into which we are plunging. In my view, even the minutes I have

spent in expostulation, have their value, because they protract the crisis, and the short period in which alone we may resolve to escape it.

I have thus been led, by my feelings, to speak more at length than I had intended. Yet I have, perhaps, as little personal interest in the event as any one here. There is, I believe, no member who will not think his chance to be a witness of the consequences greater than mine. If, however, the vote should pass to reject, and a spirit should rise, as it will, with the public disorders, to make confusion worse confounded, even I, slender and almost broken as my hold upon life is, may outlive the government and constitution of my country.

SPEECH OF EDWARD LIVINGSTON,

ON

THE ALIEN BILL,

DELIVERED IN THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES, JUNE 19, 1798.

By this bill, it was provided that the president might order dangerous or suspected aliens to depart out of the territory of the United States. The penalty, for disobedience of the president's order, was imprisonment and a perpetual exclusion from the rights of citizenship. If any alien, ordered to depart, should prove, to the satisfaction of the president, that no injury to the United States would arise from suffering him to remain, the president might grant him a license to remain for such time as he should deem proper, and at such place as he should designate.

The question was about to be taken on the final passage of the bill, when Mr. Livingston addressed the house as follows:—

Mr. Speaker,

I esteem it one of the most fortunate occurrences of my life, that, after an inevitable absence from my seat in this house, I have arrived in time to express my dissent to the passage of this bill. It would have been a source of eternal regret, and the keenest remorse, if any private affairs, any domestic concerns, however interesting, had deprived me of the opportunity I am now about to use of stating my objections, and recording my vote against an act which I believe to be in direct violation of the constitution, and marked with every characteristic of the most odious despotism.

On my arrival, I inquired what subject occupied the attention of the house; and being told it was the alien bill, I directed the printed copy to be brought to me; but, to my great surprise, seven or eight copies of different bills on the same subject were put into my hands: among them it was difficult (so strongly were they marked by the same family features) to discover the individual bill then under discussion. This circumstance gave me a suspicion, that the principles of the measure were erroneous. Truth marches directly to its end by a single, undeviating path. Error is either undermining in its object, or pursues it through a thousand winding ways: the multiplicity of propositions, therefore, to attain

the same general but doubtful end, led me to suspect, that neither the object nor the means, proposed to attain it, were proper or necessary. These surmises have been confirmed by a more minute examination of the bill. In the construction of statutes, it is a received rule to examine what was the state of things when they were passed, and what were the evils they were intended to remedy: as these circumstances will be applied in the construction of the law, it may be well to examine them minutely in framing it. The state of things, if we are to judge from the complexion of the bill, must be that a number of aliens, enjoying the protection of our government, are plotting its destruction; that they are engaged in treasonable machinations against a people who have given them an asylum and support, and that there exists no provision for their expulsion and punishment. If these things are so, and no remedy exists for the evil, one ought speedily to be provided; but even then it must be a remedy that is consistent with the constitution under which we act; for, by that instrument, all powers, not expressly given to it by the union, are reserved to the states: it follows, that, unless an express authority can be found, vesting us with the power, be the evil ever so great, it can only be remedied by the several states, who have never delegated the authority to congress.

We must legislate upon facts, not on surmises: we must have evidence, not vague suspicions, if we mean to legislate with prudence. What facts have been produced? What evidence has been submitted to the house? I have heard, sir, of none; but if evidence of facts could not be procured, at least it might have been expected, that reasonable cause of suspicion should be shown. Here, again, gentlemen are at fault; they cannot even show a suspicion why aliens ought to be suspected. We have, indeed, been told, that the fate of Venice, Switzerland, and Batavia, was produced by the interference of foreigners. But the instances are unfortunate; because all those powers have been overcome by foreign force, or divided by domestic faction, not by the influence of aliens who resided among them; and if any instruction is to be gained from the history of those republics, it is, that we ought to banish not aliens, but all those citizens who do not approve the executive acts. This doctrine, I believe, gentlemen are not ready to avow; but if this measure prevails, I shall not think the other remote. If it has been proved, that these governments were destroyed by the conspiracies of aliens, it yet remains to be shown, that we are in the same situation; or that any such plots have been detected, or are even reasonably suspected here. Nothing of this kind has yet been done. A modern Theseus, indeed, has told us, that he has procured a clew that will enable him to penetrate the labyrinth and destroy this monster of sedition. Who the

fair Ariadne is, who kindly gave him the ball, he has not revealed; nor, though several days have elapsed since he undertook the adventure, has he yet told us where the monster lurks. No evidence then being produced, we have a right to say, that none exists; and yet we are about to sanction a most important act, and on what grounds?—Our individual suspicions, our private fears, our overheated imaginations. Seeing nothing to excite these suspicions, and not feeling those fears, I cannot give my assent to the bill, even if I did not feel a superior obligation to reject it on other grounds.

The first section provides, that it shall be lawful for the president "to order all such aliens as he shall judge dangerous to the peace and safety of the United States, or shall have reasonable grounds to suspect are concerned in any treasonable or secret machinations against the government thereof, to depart out of the United States, in such time as shall be expressed in such order."

Our government, sir, is founded on the establishment of those principles which constitute the difference between a free constitution and a despotic power; a distribution of the legislative, executive and judiciary powers into several hands; a distribution strongly marked in the three first and great divisions of the constitution. By the first, all legislative power is given to congress; the second vests all executive functions in the president, and the third declares, that the judiciary powers shall be exercised by the supreme and inferior courts. Here, then, is a division of the governmental powers strongly marked, decisively pronounced; and every act of one or all of the branches, that tends to confound these powers, or alter their arrangement, must be destructive of the constitution. Examine, then, sir, the bill on your table, and declare, whether the few lines I have repeated from the first section do not confound these fundamental powers of government, vest them all, in more unqualified terms, in one hand, and thus subvert the basis on which our liberties rest.

Legislative power prescribes the rule of action; the judiciary applies the general rule to particular cases; and it is the province of the executive to see that the laws are carried into full effect. In all free governments, these powers are exercised by different men, and their union in the same hand is the peculiar characteristic of despotism. If the same power that makes the law can construe it to suit his interest, and apply it to gratify his vengeance; if he can go further, and execute, according to his own passions, the judgment which he himself has pronounced upon his own construction of laws which he alone has made, what other features are wanted to complete the picture of tyranny? Yet all this, and more, is proposed to be done by this act: by it the president alone is empowered to make the law, to fix in his mind what acts,

what words, thoughts or looks, shall constitute the crime contemplated by the bill. He is not only authorized to make this law for his own conduct, but to vary it at pleasure, as every gust of passion, every cloud of suspicion, shall agitate or darken his mind. The same power that formed the law then applies it to the guilty or innocent victim, whom its own suspicions, or the secret whisper of a spy, have designated as its object. The president, then, having construed and applied it, the same president is by the bill authorized to execute his sentence, in case of disobedience, by imprisonment during his pleasure. This, then, comes completely within the definition of despotism—a union of legislative, executive, and judicial powers. But this bill, sir, does not stop here: its provisions are a refinement upon despotism, and present an image of the most fearful tyranny. Even in despotisms, though the monarch legislates, judges and executes, yet he legislates openly: his laws, though oppressive, are known: they precede the offence, and every man who chooses may avoid the penalties of disobedience. Yet he judges and executes by proxy, and his private interests or passions do not inflame the mind of his deputy.

But here the law is so closely concealed in the same mind that gave it birth—the crime is "exciting the suspicions of the president"—that no man can tell what conduct will avoid that suspicion: a careless word, perhaps misrepresented or never spoken, may be sufficient evidence; a look may destroy; an idle gesture may ensure punishment; no innocence can protect, no circumspection can avoid the jealousy of suspicion. Surrounded by spies, informers, and all that infamous herd which fatten under laws like this, the unfortunate stranger will never know either of the law of accusation or of the judgment, until the moment it is put in execution: he will detest your tyranny, and fly from a land of delators, inquisitors, and spies. This, sir, is a refinement upon the detestable contrivance of the decemvirs. They hung the tables of their laws so high, that few could read them; a tall man, however, might reach—a short one might climb and learn their contents; but here the law is equally inaccessible to high and low, safely concealed in the breast of its author; no industry or caution can penetrate this recess, and attain a knowledge of its provisions, nor, even if they could, as the rule is not permanent, would it at all avail.

Having shown, that this bill is at war with the fundamental principles of our government, I might stop here in the certain hope of its rejection. But I can do more; unless we are resolved to pervert the meaning of terms, I can show that the constitution has endeavored to "make its surety doubly sure, and take a bond of fate," by several express prohibitions of measures like the one you

now contemplate. One of these is contained in the ninth section of the first article; it is at the head of the articles which restrict the powers of congress, and declares, "that the emigration or importation of such persons as any of the states shall think proper to admit, shall not be prohibited prior to the year 1808." Now, sir, where is the difference between a power to prevent the arrival of aliens and a power to send them away as soon as they arrive? To me they appear precisely the same. The constitution expressly says, that congress shall not do this; and yet congress are about to delegate this prohibited power, and say the president may exercise it as his pleasure may direct.

Judiciary power is taken from courts, and given to the executive: the previous safeguard of a presentment by a grand inquest is removed: the trial by jury is abolished: the "public trial," required by the constitution, is changed into a secret and worse than inquisitorial tribunal. Instead of giving "information on the nature and cause of the accusation," the criminal, alike ignorant of his offence, and the danger to which he is exposed, never hears of either, until the judgment is passed and the sentence is executed. Instead of being "confronted with his accusers," he is kept alike ignorant of their names and their existence; and the forms of a trial being dispensed with, it would be a mockery to talk of "process for witness," or the "assistance of counsel for defence." Thus are all the barriers, which the wisdom and humanity of our country has placed between accused innocence and oppresive power, at once forced and broken down. Not a vestige even of their form remains. No indictments, no jury, no trial, no public procedure, no statement of the accusation, no examination of the witnesses in its support, no counsel for defence; all is darkness, silence, mystery and suspicion. But, as if this were not enough, the unfortunate victims of this law are told, in the next section, that, if they can convince the president that his suspicions are unfounded, he may, if he pleases, give them a license to stay. But how can they remove his suspicions, when they know not on what act they were founded? How take proof to convince him, when he is not bound to furnish that on which he proceeds? Miserable mockery of justice! Appoint an arbitrary judge, armed with legislative and executive powers added to his own! Let him condemn the unheard, the unaccused object of his suspicions, and then, to cover the injustice of the scene, gravely tell him, you ought not to complain; you need only disprove facts you have never heard, remove suspicions that have never been communicated to you: it will be easy to convince your judge, whom you shall not approach, that he is tyrannical and unjust; and when you have done this, we give him the power he had before to pardon you if he pleases!

So obviously do the constitutional objections present themselves, that their existence cannot be denied, and two wretched subterfuges are resorted to, to remove them out of sight. In the first place, it is said, the bill does not contemplate the punishment of any crime, and therefore the provisions in the constitution, relative to criminal proceedings and judiciary powers, do not apply. But have the gentlemen, who reason thus, read the bill, or is every thing forgotten, in our zealous hurry to pass it? What are the offences upon which it is to operate? Not only the offence of being "suspected of being dangerous to the peace and safety of the United States," but also that of being "concerned in any treasonable or secret machinations against the government thereof"—and this, we are told, is no crime. A treasonable machination against the government is not the subject of criminal jurisprudence! Good heaven! to what absurdities does not an overzealous attachment to particular measures lead us! In order to punish a particular act, we are forced to say, that treason is no crime, and plotting against our government is no offence! And to support this fine hypothesis, we are obliged to plunge deeper into absurdity, and say, that the acts, spoken of in the bill are no crimes, and therefore the penalty contained in it is not a punishment, but merely a prevention; that is to say, we invite strangers to come amongst us; we declare solemnly, that government shall not prevent them; we entice them over by the delusive prospects of advantage; in many parts of the union we permit them to hold lands, and give them other advantages while they are waiting for the period at which we have promised them a full participation of all our rights. An unfortunate stranger, disgusted with tyranny at home, thinks he shall find freedom here; he accepts our conditions; he puts faith in our promises; he vests his all in our hands; he has dissolved his former connections and made your country his own; but while he is patiently waiting the expiration of the period that is to crown the work, entitle him to all the rights of a citizen—the tale of a domestic spy, or the calumny of a secret enemy, draws on him the suspicions of the president, and, unheard, he is ordered to quit the spot he had selected for his retreat, the country which he had chosen for his own, perhaps the family which was his only consolation in life; he is ordered to retire to a country whose government, irritated by his renunciation of its authority, will receive only to punish him—and all this, we are told, is no punishment!

So manifest do these violations of the constitution appear to me, so futile the arguments in their defence, that they press seriously on my mind, and sink it even to despondency. They are so glaring to my understanding, that I have felt it my duty to speak of them in a manner that may perhaps give offence to men whom

I esteem, and who seem to think differently on this subject: none, however, I can assure them, is intended. I have seen measures carried in this house which I thought militated against the spirit of the constitution; but never before have I been witness to so open, so undisguised an attack.

I have now done, sir, with the bill, and come to consider the consequences of its operation. One of the most serious has been anticipated, when I described the blow it would give to the constitution of our country. We should cautiously beware of the first act of violation: habituated to overleap its bounds, we become familiarized to the guilt, and disregard the danger of a second offence; until, proceeding from one unauthorized act to another, we at length throw off all restraint which our constitution has imposed, and very soon not even the semblance of its form will remain.

But, if regardless of our duty as citizens, and our solemn obligations as representatives; regardless of the rights of our constituents; regardless of every sanction, human and divine, we are ready to violate the constitution we have sworn to defend—will the people submit to our unauthorized acts? will the states sanction our usurped power? Sir, they ought not to submit—they would deserve the chains which these measures are forging for them, if they did not resist. For let no man vainly imagine, that the evil is to stop here; that a few unprotected aliens only are to be affected by this inquisitorial power. The same arguments, which enforce those provisions against aliens, apply with equal strength to enacting them in the case of citizens. The citizen has no other protection for his personal security, that I know, against laws like this, than the humane provisions I have cited from the constitution. But all these apply in common to the citizen and the stranger: all crimes are to be tried by jury: no person shall be held to answer unless on presentment: in all criminal prosecutions, the accused is to have a public trial: the accused is to be informed of the nature of the charge; to be confronted with the witnesses against him; may have process to enforce the appearance of those in his favor, and is to be allowed counsel in his defence. Unless, therefore, we can believe, that treasonable machinations and the other offences, described in the bill, are not crimes, that an alien is not a person, and that one charged with treasonable practices is not accused—unless we can believe all this in contradiction to our understanding, to received opinions and the uniform practice of our courts, we must allow, that all these provisions extend equally to alien and native, and that the citizen has no other security for his personal safety than is extended to the stranger, who is within his gates. If, therefore, this security is violated in one instance, what pledge have we that it will not be in the other? The same plea of necessity will justify both.

Either the offences described in the act are crimes, or they are not. If they are, then all the humane provisions of the constitution forbid this mode of punishing, or preventing them, equally as relates to aliens and citizens. If they are not crimes, the citizen has no more safety by the constitution, than the alien; for all these provisions apply only to crimes; so that, in either event, the citizen has the same reason to expect a similar law to the one now before you, which will subject his person to the uncontrolled despotism of a single man. You have already been told of plots and conspiracies; and all the frightful images, that are necessary to keep up the present system of terror and alarm, have been presented to you; but who are implicated by these dark hints—these mysterious allusions? They are our own citizens, sir, not aliens. If there is any necessity for the system now proposed, it is more necessary to be enforced against our own citizens, than against strangers; and I have no doubt, that either in this or some other shape, this will be attempted. I now ask, sir, whether the people of America are prepared for this; whether they are willing to part with all the means which the wisdom of their ancestors discovered; and their own caution so lately adopted to secure their own persons; whether they are willing to submit to imprisonment, or exile, whenever suspicion, calumny, or vengeance, shall mark them for ruin. Are they base enough to be prepared for this? No, sir, they will, I repeat it, they will resist this tyrannical system; the people will oppose, the states will not submit to its operations; they ought not to acquiesce, and I pray to God they never may.

My opinions, sir, on this subject, are explicit, and I wish they may be known; they are, that whenever our laws manifestly infringe the constitution under which they were made, the people ought not to hesitate which they should obey: if we exceed our powers, we become tyrants, and our acts have no effect. Thus, sir, one of the first effects of measures such as this, if they be acquiesced in, will be disaffection among the states, and opposition among the people to your government; tumults, violations, and a recurrence to first revolutionary principles: if they are submitted to, the consequences will be worse. After such manifest violation of the principles of our constitution, the form will not long be sacred; presently every vestige of it will be lost and swallowed up in the gulf of despotism. But should the evil proceed no farther than the execution of the present law, what a fearful picture will our country present! The system of espionage thus established, the country will swarm with information-spies, delators, and all that odious tribe, that breed in the sunshine of despotic power, that suck the blood of the unfortunate, and creep into the bosom of sleeping innocence only to awaken it with a burning wound.

The hours of the most unsuspecting confidence; the intimacies of friendship, or the recesses of domestic retirement, afford no security: the companion whom you must trust, the friend in whom you must confide, the domestic who waits in your chamber, are all tempted to betray your imprudence or guardless follies, to misrepresent your words, to convey them, distorted by calumny, to the secret tribunal where jealousy presides, where fear officiates as accuser, where suspicion is the only evidence that is heard.

These, bad as they are, are not the only ill consequences of these measures. Among them we may reckon the loss of wealth, of population and of commerce. Gentlemen who support the bill seemed to be aware of this, when yesterday they introduced a clause to secure the property of those who might be ordered to go off. They should have foreseen the consequences of the steps which they have been taking: it is now too late to discover, that large sums are drawn from the banks, that a great capital is taken from commerce. It is ridiculous to observe the solicitude they show to retain the wealth of these dangerous men, whose persons they are so eager to get rid of. If they wish to retain it, it must be by giving them security to their persons, and assuring them that while they respect the laws, the laws will protect them from arbitrary powers; it must be, in short, by rejecting the bill on your table. I might mention other inferior considerations; but I ought, sir, rather to entreat the pardon of the house for having touched on this. Compared to the breach of our constitution, and the establishment of arbitrary power, every other topic is trifling; arguments of convenience sink into nothing; the preservation of wealth, the increase of commerce, however weighty on other occasions, here lose their importance, when the fundamental principles of freedom are in danger. I am tempted to borrow the impressive language of a foreign speaker, and exclaim—"Perish our commerce, let our constitution live;" perish our riches, let our freedom live. This, sir, would be the sentiment of every American, were the alternative between submission and wealth; but here, sir, it is proposed to destroy our wealth in order to ruin our commerce; not in order to preserve our constitution, but to break it—not to secure our freedom, but to abandon it.

I have now done, sir; but, before I sit down, let me entreat gentlemen seriously to reflect, before they pronounce the decisive vote, that gives the first open stab to the principles of our government. Our mistaken zeal, like the patriarch of old, has bound one victim; it lies at the foot of the altar; a sacrifice of the first-born offspring of freedom is proposed by those who gave it birth. The hand is already raised to strike, and nothing, I fear, but the voice of Heaven can arrest the impious blow.

Let not gentlemen flatter themselves, that the fervor of the

moment can make the people insensible to these aggressions. It is an honest, noble warmth, produced by an indignant sense of injury. It will never, I trust, be extinct, while there is a proper cause to excite it. But the people of America, sir, though watchful against foreign aggressions, are not careless of domestic encroachment: they are as jealous, sir, of their liberties at home as of the power and prosperity of their country abroad: they will awake to a sense of their danger. Do not let us flatter ourselves, then, that these measures will be unobserved or disregarded: do not let us be told, sir, that we excite a fervor against foreign aggressions only to establish tyranny at home; that, like the arch traitor, we cry, "Hail Columbia," at the moment we are betraying her to destruction; that we sing out, "Happy land," when we are plunging it in ruin and disgrace; and that we are absurd enough to call ourselves "free and enlightened," while we advocate principles that would have disgraced the age of Gothic barbarity, and establish a code, compared to which the ordeal is wise, and the trial by *battel* is merciful and just.

The bill became a law on the 25th June, 1798.

SPEECH OF GOVERNEUR MORRIS,

ON

THE JUDICIARY ACT,

DELIVERED IN THE SENATE OF THE UNITED STATES,
JANUARY 14, 1802,

On the following motion, "*Resolved*, That the act of congress, passed on the 13th day of February, 1801, entitled 'An Act to provide for the more convenient organization of the courts of the United States, ought to be repealed."

MR. PRESIDENT,

I had fostered the hope that some gentleman, who thinks with me, would have taken upon himself the task of replying to the observations made yesterday, and this morning, in favor of the motion on your table. But since no gentleman has gone so fully into the subject as it seems to require, I am compelled to request your attention.

We were told, yesterday, by the honorable member from Virginia, that our objections were calculated for the by-standers, and made with a view to produce effect upon the people at large. I know not for whom this charge is intended. I certainly recollect no such observations. As I was personally charged with making a play upon words, it may have been intended for me. But surely, sir, it will be recollected that I declined that paltry game, and declared that I considered the verbal criticism which had been relied on as irrelevant. If I can recollect what I said, from recollecting well what I thought and meant to say, sure I am, that I uttered nothing in the style of an appeal to the people. I hope no member of this house has so poor a sense of its dignity as to make such an appeal. As to myself, it is now near thirty years since I was called into public office. During that period, I have frequently been the servant of the people, always their friend; but at no one moment of my life their flatterer, and God forbid that I ever should be. When the honorable gentleman considers the course we have taken, he must see, that the observation he has thus pointed can light on no object. I trust that it did not

flow from the consciousness of his own intentions. He, I hope, had no view of this sort. If he had, he was much, very much mistaken. Had he looked round upon those who honor us with their attendance, he would have seen that the splendid flashes of his wit excited no approbatory smile. The countenances of those by whom we were surrounded presented a different spectacle. They were impressed with the dignity of this house: they perceived in it the dignity of the American people, and felt, with high and manly sentiment, their own participation.

We have been told, sir, by the honorable gentleman from Virginia, that there is no independent part of this government; that, in popular governments, the force of every department, as well as the government itself, must depend upon popular opinion. The honorable member from North Carolina has informed us, that there is no check for the overbearing powers of the legislature but public opinion; and he has been pleased to notice a sentiment I had uttered—a sentiment which not only fell from my lips, but which flowed from my heart. It has, however, been misunderstood and misapplied. After reminding the house of the dangers to which popular governments are exposed from the influence of designing demagogues upon popular passion, I took the liberty to say, that we, we the senate of the United States, are assembled here to save the people from their most dangerous enemy, to save them from themselves; to guard them against the baneful effects of their own precipitation, their passion, their misguided zeal. It is for these purposes that all our constitutional checks are devised. If this be not the language of the constitution, the constitution is all nonsense. For why are the senators chosen by communities, and the representatives directly by the people? Why are the one chosen for a longer term than the other? Why give one branch of the legislature a negative upon the acts of the other? Why give the president a right to arrest the proceedings of both, till two thirds of each should concur? Why all these multiplied precautions, unless to check and control that impetuous spirit, that headlong torrent of opinion, which has swept away every popular government that ever existed.

With the most respectful attention, I heard the declaration of the gentleman from Virginia, of his own sentiment. "Whatever," said he, "may be my opinion of the constitution, I hold myself bound to respect it." He disdained, sir, to profess an attachment he did not feel, and I accept his candor as a pledge for the performance of his duty. But he will admit this necessary inference from that frank confession, that, although he will struggle (against his inclination) to support the constitution, even to the last moment, yet when, in spite of all his efforts, it shall fall, he will rejoice in its destruction. Far different are my feelings. It is pos-

sible that we are both prejudiced, and that, in taking the ground on which we respectively stand, our judgments are influenced by the sentiments which glow in our hearts. I, sir, wish to support this constitution, because I love it; and I love it because I consider it as the bond of our union; because in my soul I believe, that on it depends our harmony and our peace; that without it, we should soon be plunged in all the horrors of civil war; that this country would be deluged with the blood of its inhabitants, and a brother's hand raised against the bosom of a brother.

After these preliminary remarks, I hope I shall be indulged while I consider the subject in reference to the two points which have been taken, the expediency and the constitutionality of the repeal.

In considering the expediency, I hope I shall be pardoned for asking your attention to some parts of the constitution which have not yet been dwelt upon, and which tend to elucidate this part of our inquiry. I agree fully with the gentleman, that every section, every sentence, and every word of the constitution, ought to be deliberately weighed and examined; nay, I am content to go along with him, and give its due value and importance to every stop and comma. In the beginning, we find a declaration of the motives which induced the American people to bind themselves by this compact. And in the foreground of that declaration, we find these objects specified; "to form a more perfect union, to establish justice, and to ensure domestic tranquillity." But how are these objects effected? The people intended to establish justice. What provision have they made to fulfil that intention? After pointing out the courts, which should be established, the second section of the third article informs us, "the judicial power shall extend to all cases in law and equity, arising under this constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more states; between a state and citizens of another state; between citizens of different states; between citizens of the same state claiming lands under grants of different states; and between a state, or the citizens thereof, and foreign states, citizens or subjects.

"In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be a party, the supreme court shall have original jurisdiction. In all the other cases before mentioned, the supreme court shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations as the congress shall make."

Thus, then, we find that the judicial power shall extend to a great variety of cases, but that the supreme court shall have only appellate jurisdiction in all admiralty and maritime causes, in all controversies between the United States and private citizens, between citizens of different states, between citizens of the same state claiming lands under different states, and between a citizen of the United States and foreign states, citizens or subjects. The honorable gentleman from Kentucky, who made the motion on your table, has told us that the constitution, in its judiciary provisions, contemplated only those cases which could not be tried in the state courts. But he will, I hope, pardon me when I contend that the constitution did not merely contemplate, but did by express words, reserve to the national tribunals a right to decide, and did secure to the citizens of America a right to demand their decision, in many cases evidently cognizable in the state courts. And what are these cases? They are those, in respect to which, it is by the constitution presumed, that the state courts would not always make a cool and calm investigation, a fair and just decision. To form, therefore, a more perfect union, and to insure domestic tranquillity, the constitution has said there shall be courts of the union to try causes, by the wrongful decision of which, the union might be endangered or domestic tranquillity be disturbed. And what courts? Look again at the cases designated. The supreme court has no original jurisdiction. The constitution has said that the judicial powers shall be vested in the supreme and inferior courts. It has declared that the judicial power, so vested, shall extend to the cases mentioned, and that the supreme court shall not have original jurisdiction in those cases. Evidently, therefore, it has declared, that they shall (in the first instance) be tried by inferior courts, with appeal to the supreme court. This, therefore, amounts to a declaration that the inferior courts shall exist; since, without them, the citizen is deprived of those rights for which he stipulated, or rather those rights verbally granted, would be actually withheld, and that great security of our union, that necessary guard of our tranquillity, be completely paralyzed, if not destroyed. In declaring, then, that these tribunals shall exist, it equally declares, that the congress shall ordain and establish them. I say they shall; this is the evident intention, if not the express words, of the constitution. The convention in framing, the American people in adopting that compact, did not, could not presume, that the congress would omit to do what they were thus bound to do. They could not presume, that the legislature would hesitate one moment, in establishing the organs necessary to carry into effect those wholesome, those important provisions.

The honorable member from Virginia has given us a history of the judicial system, and, in the course of it, has told us, that the

judges of the supreme court knew, when they accepted their offices, the duties they had to perform, and the salaries they were to receive. He thence infers, that if again called on to do the same duties, they have no right to complain. Agreed—but that is not the question between us. Admitting that they have made a hard bargain, and that we may hold them to a strict performance, is it wise to exact their compliance to the injury of our constituents? We are urged to go back to the old system; but let us first examine the effects of that system. The judges of the supreme court rode the circuits, and two of them, with the assistance of a district judge, held circuit courts and tried causes. As a supreme court, they have in most cases only an appellate jurisdiction. In the first instance, therefore, they tried a cause, sitting as an inferior court, and then, on appeal, tried it over again, as a supreme court. Thus, then, the appeal was from the sentence of the judges to the judges themselves. But say, that to avoid this impropriety, you will incapacitate the two judges who sat on the circuit from sitting in the supreme court to review their own decrees. Strike them off; and suppose either the same or a contrary decision to have been made on another circuit, by two of their brethren in a similar case: for the same reason you strike them off, and then you have no court left. Is this wise? Is it safe? You place yourselves in the situation where your citizens must be deprived of the advantage given to them of a court of appeals, or else run the greatest risk that the decision of the first court will carry with it that of the other.

The same honorable member has given us a history of the law passed the last session, which he wishes now to repeal. That history is accurate, at least in one important part of it. I believe that all amendments were rejected, pertinaciously rejected; and I acknowledge that I joined heartily in that rejection. It was for the clearest reason on earth. We all perfectly understood, that to amend the bill was to destroy it; that if ever it got back to the other house, it would perish. Those, therefore, who approved of the general provisions of that bill, were determined to adopt it. We sought the practicable good, and would not, in pursuit of unattainable perfection, sacrifice that good to the pride of opinion. We took the bill, therefore, with its imperfections, convinced, that when it was once passed into a law, it might be easily amended.

We are now told, that this procedure was improper; nay, that it was indecent; that public opinion had declared itself against us; that a majority (holding different opinions) was already chosen to the other house; and that a similar majority was expected for that in which we sit. Mr. President, are we then to understand, that opposition to the majority in the two houses of congress is improper—is indecent? If so, what are we to think of those gentlemen, who, not only

with proper and decent, but with laudable motives (for such is their claim), so long, so perseveringly, so pertinaciously opposed that voice of the people, which had so repeatedly, and for so many years, declared itself against them, through the organ of their representatives? Was this indecent in them? If not, how could it be improper for us to seize the only moment, which was left for the then majority to do what they deemed a necessary act? Let me again refer to those imperious demands of the constitution, which called on us to establish inferior courts. Let me remind gentlemen of their assertion on this floor, that centuries might elapse before any judicial system could be established with general consent. And then let me ask, being thus impressed with the sense of the duty and the difficulty of performing that arduous task, Was it not wise to seize the auspicious moment?

Among the many stigmas affixed to this law, we have been told that the president, in selecting men to fill the offices which it created, made vacancies and filled them from the floor of this house; and that but for the influence of this circumstance, a majority in favor of it could not have been found. Let us examine this suggestion. It is grounded on a supposition of corrupt influence, derived from a hope founded on two remote and successive contingencies. First, the vacancy might or might not exist; for it depended as well on the acceptance of another as on the president's grant; and secondly, the president might or might not fill it with a member of this house. Yet on this vague conjecture, on this unstable ground, it is inferred, that men in high confidence violated their duty. It is hard to determine the influence of self-interest on the heart of man. I shall not, therefore, make the attempt. In the present case, it is possible that the imputation may be just, but I hope not, I believe not. At any rate, gentlemen will agree with me, that the calculation is uncertain, and the conjecture vague.

But let it now, for argument's sake, be admitted, saving always the reputation of honorable men, who are not here to defend themselves—let it, I say, for argument's sake, be admitted, that the gentlemen alluded to acted under the influence of improper motives. What then? Is a law that has received the varied assent required by the constitution, and is clothed with all the needful formalities, thereby invalidated? Can you impair its force by impeaching the motives of any member who voted for it? Does it follow, that a law is bad because all those who concurred in it cannot give good reasons for their votes? Is it not before us? Must we not judge of it by its intrinsic merit? Is it a fair argument, addressed to our understanding, to say, we must repeal a law, even a good one, if the enacting of it may have been effected, in any

degree, by improper motives? Or, is the judgment of this house so feeble that it may not be trusted?

Gentlemen tell us, however, that the law is materially defective, nay, that it is unconstitutional. What follows? Gentlemen bid us repeal it. But is this just reasoning? If the law be only defective, why not amend? And if unconstitutional, why repeal? In this case, no repeal can be necessary; the law is in itself void; it is a mere dead letter.

To show that it is unconstitutional, a particular clause is pointed out, and an inference is made, as in the case of goods, where, because there is one contraband article on board, the whole cargo is forfeited. Admit, for a moment, that the part alluded to were unconstitutional, this would in no wise affect the remainder. That part would be void, or, if you think proper, you can repeal that part.

Let us, however, examine the clause objected to on the ground of the constitution. It is said, that by this law the district judges in Tennessee and Kentucky are removed from office by making them circuit judges. And again, that you have by law appointed two new offices, those of circuit judges, and filled them by law, instead of pursuing the modes of appointment prescribed by the constitution. To prove all this, the gentleman from Virginia did us the favor to read those parts of the law which he condemns; and if I can trust to my memory, it is clear, from what he read, that the law does not remove these district judges, neither does it appoint them to the office of circuit judges. It does, indeed, put down the district courts; but is so far from destroying the offices of district judge, that it declares, the persons filling those offices shall perform the duty of holding the circuit courts. And so far is it from appointing circuit judges, that it declares, the circuit courts shall be held by the district judges. But gentlemen contend, that to discontinue the district courts, was in effect to remove the district judge. This, sir, is so far from being a just inference from the law, that the direct contrary follows as a necessary result; for it is on the principle, that these judges continue in office after their courts are discontinued, that the new duty of holding courts is assigned to them. But gentlemen say, this doctrine militates with the principles we contend for. Surely not. It must be recollected, sir, that we have repeatedly admitted the right of the legislature to change, alter, modify and amend the judiciary system, so as best to promote the interest of the people. We only contend, that you shall not exceed or contravene the authority by which you act. But, say gentlemen, you forced this new office on the district judges, and this is in effect a new appointment. I answer, that the question can only arise on the refusal of those judges to

act. But is it unconstitutional to assign new duties to officers already existing? I fear that if this construction be adopted, our labors will speedily end; for we shall be so shackled, that we cannot move. What is the practice? Do we not every day call upon particular officers to perform duties not previously assigned to or required of them? And must the executive, in every such case, make a new appointment?

But as a further reason to restore, by repealing this law, the old system, an honorable member from North Carolina has told us, the judges of the supreme court should attend in the states to acquire a competent knowledge of local institutions, and for this purpose should continue to ride the circuits. I believe there is great use in sending young men to travel; it tends to enlarge their views, and give them more liberal ideas than they might otherwise possess. Nay, if they reside long enough in foreign countries, they may become acquainted with the manners of the people, and acquire some knowledge of their civil institutions. But I am not quite convinced, that riding rapidly from one end of this country to the other, is the best way to study law. I am inclined to believe, that knowledge may be more conveniently acquired in the closet than in the high road. It is moreover to be presumed, that the first magistrate would, in selecting persons to fill these offices, take the best characters from the different parts of the country, who already possess the needful acquirements. But admitting that the president should not duly exercise, in this respect, his discretionary powers, and admitting that the ideas of the gentleman are correct, how wretched must be our condition! These, our judges, when called on to exercise their functions, would but begin to learn their trade, and that too at a period of life when the intellectual powers, with no great facility, can acquire new ideas. We must, therefore, have a double set of judges—one set of apprentice-judges to ride circuits and learn; the other set of master-judges to hold courts and decide controversies.

We are told, sir, that the repeal asked for is important, in that it may establish a precedent, for that it is not merely a question on the propriety of disbanding a corps of sixteen rank and file; but that provision may hereafter be made, not for sixteen, but for sixteen hundred, or sixteen thousand judges, and that it may become necessary to turn them to the right about. Mr. President, I will not, I cannot presume, that any such provision will ever be made, and therefore I cannot conceive any such necessity; I will not suppose, for I cannot suppose, that any party or faction will ever do any thing so wild, so extravagant. But I will ask, How does this strange supposition consist with the doctrine of gentlemen that public opinion is a sufficient check on the legislature, and a sufficient safeguard to the people? Put the case to its consequences,

and what becomes of the check? Will gentlemen say it is to be found in the force of this wise precedent? Is this to control succeeding rulers in their wild, their mad career? But how? Is the creation of judicial officers the only thing committed to their discretion? Have they not, according to the doctrine contended for, our all at their disposal, with no other check than public opinion, which, according to the supposition, will not prevent them from committing the greatest follies and absurdities? Take then all the gentleman's ideas and compare them together; it will result that here is an inestimable treasure put into the hands of drunkards, madmen and fools.

But away with all these derogatory suppositions. The legislature may be trusted. Our government is a system of salutary checks: one legislative branch is a check on the other. And should the violence of party spirit bear both of them away, the president, an officer high in honor, high in the public confidence, charged with weighty concerns, responsible to his own reputation and to the world, stands ready to arrest their too impetuous course. This is our system. It makes no mad appeal to every mob in the country. It appeals to the sober sense of men selected from their fellow-citizens for their talents, for their virtue; of men advanced in life, and of matured judgment. It appeals to their understanding, to their integrity, to their honor, to their love of fame, to their sense of shame. If all these checks should prove insufficient, and alas! such is the condition of human nature, that I fear they will not always be sufficient, the constitution has given us one more: it has given us an independent judiciary. We have been told, that the executive authority carries your laws into execution. But let us not be the dupes of sound. The executive magistrate commands, indeed, your fleets and armies; and duties, imposts, excises, and other taxes are collected, and all expenditures are made by officers whom he has appointed. So far, indeed, he executes your laws. But these, his acts, apply not often to individual concerns. In those cases, so important to the peace and happiness of society, the execution of your laws is confided to your judges; and therefore are they rendered independent. Before, then, that you violate that independence—pause. There are state sovereignties as well as the sovereignty of the general government. There are cases, too many cases, in which the interest of one is not considered as the interest of the other. Should these conflict, if the judiciary be gone, the question is no longer of law, but of force. This is a state of things which no honest and wise man can view without horror.

Suppose, in the omnipotence of your legislative authority, you trench upon the rights of your fellow-citizens by passing an unconstitutional law: if the judiciary department preserve its vigor,

it will stop you short: instead of a resort to arms, there will be a happier appeal to argument. Suppose a case still more impressive. The president is at the head of your armies. Let one of his generals, flushed with victory, and proud in command, presume to trample on the rights of your most insignificant citizen: indignant of the wrong, he will demand the protection of your tribunals, and, safe in the shadow of their wings, will laugh his oppressor to scorn.

Having now, I believe, examined all the arguments adduced to show the expediency of this motion, and which, fairly sifted, reduce themselves at last to these two things—restore the ancient system and save the additional expense;—before I close what I have to say on this ground, I hope I shall be pardoned for saying one or two words about the expense. I hope, also, that notwithstanding the epithets which may be applied to my arithmetic, I shall be pardoned for using that which I learned at school. It may have deceived me when it taught me that two and two make four: but though it should now be branded with opprobrious terms, I must still believe that two and two do still make four. Gentlemen of newer theories, and of higher attainments, while they smile at my inferiority, must bear with my infirmities, and take me as I am.

In all this great system of saving, in all this ostentatious economy, this rage of reform, how happens it that the eagle eye has not yet been turned to the mint? That no one piercing glance has been able to behold the expenditures of that department? I am far from wishing to overturn it. Though it be not of great necessity, nor even of substantial importance; though it be but a splendid trapping of your government; yet, as it may, by impressing on your current coin the emblems of your sovereignty, have some tendency to encourage a national spirit, and to foster the national pride, I am willing to contribute my share for its support. Yes, sir, I would foster the national pride. I cannot indeed approve of national vanity, nor feed it with vile adulation. But I would gladly cherish the lofty sentiments of national pride. I would wish my countrymen to feel like Romans, to be as proud as Englishmen; and, going still farther, I would wish them to veil their pride in the well-bred modesty of French politeness. But can this establishment, the mere decoration of your political edifice, can it be compared with the massy columns on which rest your peace and safety? Shall the striking of a few half pence be put into a parallel with the distribution of justice? I find, sir, from the estimates on your table, that the salaries of the officers of the mint amount to ten thousand six hundred dollars, and that the expenses are estimated at ten thousand nine hundred; making twenty-one thousand five hundred dollars.

I find that the actual expenditures of the last year, exclusive of

salaries, amounted to twenty-five thousand one hundred and fifty-four dollars; add the salaries, ten thousand six hundred dollars, we have a total of thirty-five thousand seven hundred and fifty-four dollars; a sum which exceeds the salary of these sixteen judges.

I find further, that during the last year, they have coined cents and half cents to the amount of ten thousand four hundred seventy-three dollars and twenty-nine cents. Thus their copper coinage falls a little short of what it costs us for their salaries. We have, however, from this establishment, about a million of cents; one to each family in America; a little emblematical medal, to be hung over their chimney-pieces; and this is all their compensation for all that expense. Yet not a word has been said about the mint; while the judges, whose services are so much greater, and of so much more importance to the community, are to be struck off at a blow, in order to save an expense which, compared with the object, is pitiful. What conclusion, then, are we to draw from this predilection?

I will not pretend to assign to gentlemen the motives by which they may be influenced; but if I should permit myself to make the inquiry, the style of many observations, and more especially the manner, the warmth, the irritability, which have been exhibited on this occasion, would lead to a solution of the problem. I had the honor, sir, when I addressed you the other day, to observe, that I believed the universe could not afford a spectacle more sublime than the view of a powerful state kneeling at the altar of justice, and sacrificing there her passion and her pride; that I once fostered the hope of beholding that spectacle of magnanimity in America. And now what a world of figures has the gentleman from Virginia formed on his misapprehension of that remark. I never expressed any thing like exultation at the idea of a state ignominiously dragged in triumph at the heels of your judges. But permit me to say, the gentleman's exquisite sensibility on that subject, his alarm and apprehension, all show his strong attachment to state authority. Far be it from me, however, to charge the gentleman with improper motives. I know that his emotions arise from one of those imperfections in our nature, which we cannot remedy. They are excited by causes which have naturally made him hostile to this constitution, though his duty compels him reluctantly to support it. I hope, however, that those gentlemen who entertain different sentiments, and who are less irritable on the score of state dignity, will think it essential to preserve a constitution, without which, the independent existence of the states themselves will be but of short duration.

This, sir, leads me to the second object I had proposed. I

shall, therefore, pray your indulgence, while I consider how far this measure is constitutional. I have not been able to discover the expediency, but will now, for argument's sake, admit it; and here, I cannot but express my deep regret for the situation of an honorable member from North Carolina. Tied fast as he is, by his instructions, arguments, however forcible, can never be effectual. I ought, therefore, to wish, for his sake, that his mind may not be convinced by any thing I shall say; for hard indeed would be his condition, to be bound by the contrariant obligations of an order and an oath. I cannot, however, but express my profound respect for the talents of those who gave him his instructions, and who, sitting at a distance, without hearing the arguments, could better understand the subject than their senator on this floor, after full discussion.

The honorable member from Virginia has repeated the distinction, before taken, between the supreme and the inferior tribunals; he has insisted on the distinction between the words *shall* and *may;* has inferred from that distinction, that the judges of the inferior courts are subjects of legislative discretion; and has contended that the word *may* includes all power respecting the subject to which it is applied, consequently to raise up and to put down, to create and to destroy. I must entreat your patience, sir, while I go more into this subject than I ever supposed would be necessary. By the article, so often quoted, it is declared, "that the judicial power of the United States *shall* be vested in one supreme court, and in such inferior courts as the congress *may* from time to time establish." I beg leave to recall your attention to what I have already said of these inferior courts. That the original jurisdiction of various subjects being given exclusively to them, it became the bounden duty of congress to establish such courts. I will not repeat the argument already used on that subject. But I will ask those, who urge the distinction between the supreme court and the inferior tribunals, whether a law was not previously necessary before the supreme court could be organized. They reply, that the constitution says, there shall be a supreme court, and therefore the congress are commanded to organize it, while the rest is left to their discretion. This, sir, is not the fact. The constitution says, the judicial power shall be vested in one supreme court, and in inferior courts. The legislature can, therefore, only organize one supreme court; but they may establish as many inferior courts as they shall think proper. The designation made of them by the constitution is, such inferior courts as the congress may from time to time ordain and establish. But why, say gentlemen, fix precisely one supreme court, and leave the rest to legislative discretion? The answer is simple: it results from the nature of things, from the existent and probable state of our coun-

try. There was no difficulty in deciding that one and only one supreme court would be proper or necessary, to which should lie appeals from inferior tribunals. Not so as to these. The United States were advancing in rapid progression. Their population of three millions was soon to become five, then ten, afterwards twenty millions. This was well known, as far as the future can become an object of human comprehension. In this increase of numbers, with a still greater increase of wealth, with the extension of our commerce and the progress of the arts, it was evident, that although a great many tribunals would become necessary, it was impossible to determine either on the precise number or the most convenient form. The convention did not pretend to this prescience; but had they possessed it, would it have been proper to have established then all the tribunals necessary for all future times? Would it have been wise to have planted courts among the Chickasaws, the Choctaws, the Cherokees, the Tuscaroras, and God knows how many more, because at some future day the regions over which they roam might be cultivated by polished men? Was it not proper, wise and necessary, to leave in the discretion of congress the number and the kind of courts which they might find it proper to establish for the purpose designated by the constitution? This simple statement of facts, facts of public notoriety, is alone a sufficient comment on, and explication of, the word on which gentlemen have so much relied. The convention in framing, the people in adopting, this compact, say the judicial power shall extend to many cases, the original cognizance whereof shall be by the inferior courts; but it is neither necessary, nor even possible, now to determine their number or their form: that essential power, therefore, shall vest in such inferior courts as the congress may, from time to time, in the progression of time and according to the indication of circumstances, establish; not provide, or determine, but establish. Not a mere temporary provision, but an establishment. If, after this, it had said in general terms, that judges should hold their offices during good behavior, could a doubt have existed on the interpretation of this act, under all its attending circumstances, that the judges of the inferior courts were intended, as well as those of the supreme court? But did the framers of the constitution stop there? Is there then nothing more? Did they risk on these grammatical niceties the fate of America? Did they rest here the most important branch of our government? Little important, indeed, as to foreign danger, but infinitely valuable to our domestic peace, and to personal protection against the oppression of our rulers. No; lest a doubt should be raised, they have carefully connected the judges of both courts in the same sentence; they have said "the judges both of the supreme and inferior courts," thus coupling them inseparably

together. You may cut the bands, but you can never untie them. With salutary caution they devised this clause to arrest the overbearing temper which they knew belonged to legislative bodies. They do not say the judges simply, but the judges of the supreme and inferior courts shall hold their offices during good behavior. They say, therefore, to the legislature, You may judge of the propriety, the utility, the necessity of organizing these courts; but when established, you have done your duty. Anticipating the course of passion in future times, they say to the legislature, You shall not disgrace yourselves by exhibiting the indecent spectacle of judges established by one legislature removed by another: we will save you also from yourselves: we say, these judges shall hold their offices; and surely, sir, to pretend that they can hold their office after the office is destroyed, is contemptible.

The framers of this constitution had seen much, read much, and deeply reflected. They knew by experience the violence of popular bodies; and let it be remembered, that since that day, many of the states, taught by experience, have found it necessary to change their forms of government to avoid the effects of that violence. The convention contemplated the very act you now attempt. They knew also the jealousy and the power of the states: and they established for your and for their protection, this most important department. I beg gentlemen to hear and remember what I say: it is this department alone, and it is the independence of this department, which can save you from civil war. Yes, sir, adopt the language of gentlemen, say with them, by the act to which you are urged, "If we cannot remove the judges, we can destroy them." Establish thus the dependence of the judiciary department; who will resort to them for protection against you? Who will confide in, who will be bound by their decrees? Are we then to resort to the *ultimate reason* of kings? Are our arguments to fly from the mouths of our cannon?

We are told, that we may violate our constitution, because similar constitutions have been violated elsewhere. Two states have been cited to that effect, Maryland and Virginia. The honorable gentleman from Virginia tells us, that when this happened in the state he belongs to, no complaint was made by the judges. I will not inquire into that fact, although I have the protest of the judges now lying before me; judges eminent for their talents, renowned for their learning, respectable for their virtue. I will not inquire what constitutions have been violated. I will not ask either when or where this dangerous practice began, or has been followed; I will admit the fact. What does it prove? Does it prove, that because they have violated, we also may violate? Does it not prove directly the contrary? Is it not the strongest reason on

earth for preserving the independence of our tribunals? If it be true, that they have, with strong hand, seized their courts, and bent them to their will, ought we not to give suitors a fair chance for justice in our courts? or must the suffering citizen be deprived of all protection?

The gentleman from Virginia has called our attention to certain cases which he considers as forming necessary exceptions to the principles for which we contend. Permit me to say, that necessity is a hard law, and frequently proves too much; and let the gentleman recollect, that arguments which prove too much prove nothing. He has instanced a case where it may be proper to appoint commissioners, for a limited time, to settle some particular description of controversies. Undoubtedly it is always in the power of congress to form a board of commissioners for particular purposes. He asks, Are these inferior courts, and must they also exist forever? I answer, that the nature of their offices must depend on the law by which they are created; if called to exercise the judicial functions designated by the constitution, they must have an existence conformable to its injunctions.

Again, he has instanced the Mississippi territory, claimed by and which may be surrendered to the state of Georgia; and a part of the union, which may be conquered by a foreign enemy. And he asks triumphantly, Are our inferior courts to remain after our jurisdiction is gone? This case rests upon a principle so simple, that I am surprised the honorable member did not perceive the answer in the very moment when he made the objection. Is it by our act that a country is taken from us by a foreign enemy? Is it by our consent that our jurisdiction is lost? I had the honor, in speaking the other day, expressly, and for the most obvious reasons, to except the case of conquest. As well might we contend for the government of a town swallowed up by an earthquake.

[Mr. Mason explained: he had supposed the case of territory conquered, and afterwards ceded to the conqueror, or some other territory ceded in lieu of it.]

The case is precisely the same: until after the peace the conquest is not complete. Every body knows, that until the cession by treaty, the original owner has the postliminary right to a territory taken from him. Beyond all question, where congress are compelled to cede the territory, the judges can no longer exist, unless the new sovereign confer the office. Over such territory the authority of the constitution ceases, and of course the rights which it confers.

It is said, the judicial institution is intended for the benefit of the people, and not of the judge; and it is complained of, that in speaking of the office, we say it is his office. Undoubtedly

the institution is for the benefit of the people. But the question remains, How will it be rendered most beneficial? Is it by making the judge independent, by making it his office, or is it by placing him in a state of abject dependence, so that the office shall be his to-day, and belong to another to-morrow? Let the gentleman hear the words of the constitution: it speaks of their offices; consequently, as applied to a single judge, of his office, to be exercised by him for the benefit of the people of America, to which exercise his independence is as necessary as his office.

The gentleman from Virginia has on this occasion likened the judge to a bridge, and to various other objects; but I hope for his pardon, if, while I admire the lofty flights of his eloquence, I abstain from noticing observations which I conceive to be utterly irrelevant.

The same honorable member has not only given us his history of the supreme court, but has told us of the manner in which they do business, and expressed his fears that, having little else to do, they would do mischief. We are not competent, sir, to examine, nor ought we to prejudge, their conduct. I am persuaded they will do their duty, and presume they will have the decency to believe that we do our duty. In so far as they may be busied with the great mischief of checking the legislative or executive departments in any wanton invasion of our rights, I shall rejoice in that mischief. I hope, indeed, they will not be so busied, because I hope we shall give them no cause. But I also hope they will keep an eagle eye upon us lest we should. It was partly for this purpose they were established, and I trust that, when properly called on, they will dare to act. I know this doctrine is unpleasant: I know it is more popular to appeal to public opinion; that equivocal, transient being, which exists no where and every where. But if ever the occasion calls for it, I trust that the supreme court will not neglect doing the great mischief of saving this constitution, which can be done much better by their deliberations, than by resorting to what are called revolutionary measures.

The honorable member from North Carolina, sore pressed by the delicate situation in which he is placed, thinks he has discovered a new argument in favor of the vote which he is instructed to give. As far as I can enter into his ideas, and trace their progress, he seems to have assumed the position which was to be proved, and then searched through the constitution, not to discover whether the legislature have the right contended for, but whether, admitting them to possess it, there may not be something which might not comport with that idea. I shall state the honorable member's argument as I understand it, and if mistaken, pray to be corrected. He read to us that clause which relates to impeach-

ment, and comparing it with that which fixes the tenure of judicial office, observed that this clause must relate solely to a removal by the executive power, whose right to remove, though not, indeed, any where mentioned in the constitution, has been admitted in a practice founded on legislative construction.

That as the tenure of the office is during good behavior, and as the clause respecting impeachment does not specify misbehavior, there is evidently a cause of removal, which cannot be reached by impeachment, and of course (the executive not being permitted to remove) the right must necessarily devolve on the legislature. Is this the honorable member's argument? If it be, the reply is very simple. Misbehavior is not a term known in our law; the idea is expressed by the word misdemeanor; which word is in the clause quoted respecting impeachments. Taking, therefore, the two together, and speaking plain old English, the constitution says, "The judges shall hold their offices so long as they shall demean themselves well; but if they shall misdemean—if they shall, on impeachment, be convicted of misdemeanor—they shall be removed." Thus, sir, the honorable member will find that the one clause is just as broad as the other. He will see, therefore, that the legislature can assume no right from the deficiency of either, and will find that this clause, which he relied on, goes, if rightly understood, to the confirmation of our doctrine.

Is there a member of this house, who can lay his hand on his heart, and say, that consistently with the plain words of our constitution, we have a right to repeal this law? I believe not. And if we undertake to construe this constitution to our purposes, and say that public opinion is to be our judge, there is an end to all constitutions. To what will not this dangerous doctrine lead? Should it to-day be the popular wish to destroy the first magistrate, you can destroy him; and should he to-morrow be able to conciliate to himself the will of the people, and lead them to wish for your destruction, it is easily effected. Adopt this principle, and the whim of the moment will not only be the law, but the constitution of our country.

The gentleman from Virginia has mentioned a great nation brought to the feet of one of her servants. But why is she in that situation? Is it not because popular opinion was called on to decide every thing, until those who wore bayonets decided for all the rest? Our situation is peculiar. At present, our national compact can prevent a state from acting hostilely towards the general interest. But let this compact be destroyed, and each state becomes instantaneously vested with absolute sovereignty. Is there no instance of a similar situation to be found in history?

Look at the states of Greece. They were once in a condition not unlike to that in which we should then stand. They treated the recommendations of their Amphictyonic council (which was more a meeting of ambassadors than a legislative assembly) as we did the resolutions of the old congress. Are we wise? So were they. Are we valiant? They also were brave. Have we one common language, and are we united under one head? In this also there was a strong resemblance. But by their divisions, they became at first victims to the ambition of Philip, and were at length swallowed up in the Roman empire. Are we to form an exception to the general principles of human nature, and to all the examples of history? And are the maxims of experience to become false when applied to our fate?

Some, indeed, flatter themselves, that our destiny will be like that of Rome. Such, indeed, it might be, if we had the same wise, but vile aristocracy, under whose guidance they became the masters of the world. But we have not that strong aristocratic arm, which can seize a wretched citizen, scourged almost to death by a remorseless creditor, turn him into the ranks, and bid him, as a soldier, bear our eagle in triumph round the globe! I hope to God we shall never have such an abominable institution. But what, I ask, will be the situation of these states (organized as they now are), if, by the dissolution of our national compact, they be left to themselves? What is the probable result? We shall either be the victims of foreign intrigue, and split into factions, fall under the domination of a foreign power, or else, after the misery and torment of civil war, become the subjects of an usurping military despot. What but this compact, what but this specific part of it, can save us from ruin? The judicial power, that fortress of the constitution, is now to be overturned. Yes, with honest Ajax, I would not only throw a shield before it, I would build around it a wall of brass. But I am too weak to defend the rampart against the host of assailants. I must call to my assistance their good sense, their patriotism and their virtue. Do not, gentlemen, suffer the rage of passion to drive reason from her seat. If this law be indeed bad, let us join to remedy the defects. Has it been passed in a manner which wounded your pride, or roused your resentment? Have, I conjure you, the magnanimity to pardon that offence. I entreat, I implore you, to sacrifice those angry passions to the interests of our country. Pour out this pride of opinion on the altar of patriotism. Let it be an expiatory libation for the weal of America. Do not, for God's sake, do not suffer that pride to plunge us all into the abyss of ruin. Indeed, indeed, it will be but of little, very little avail, whether one opinion or the other be right or wrong; it will heal no wounds; it will pay no

debts; it will rebuild no ravaged towns. Do not rely on that popular will, which has brought us frail beings into political existence. That opinion is but a changeable thing. It will soon change. This very measure will change it. You will be deceived. Do not, I beseech you, in reliance on a foundation so frail, commit the dignity, the harmony, the existence of our nation to the wild wind. Trust not your treasure to the waves. Throw not your compass and your charts into the ocean. Do not believe that its billows will waft you into port. Indeed, indeed, you will be deceived. Cast not away this only anchor of our safety. I have seen its progress. I know the difficulties through which it was obtained. I stand in the presence of Almighty God, and of the world; and I declare to you, that if you lose this charter, never! no, never will you get another! We are now, perhaps, arrived at the parting point. Here, even here, we stand on the brink of fate. Pause—Pause—For Heaven's sake, Pause!!

SPEECH OF JAMES A. BAYARD,

ON

THE JUDICIARY ACT,

DELIVERED IN THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES, FEBRUARY 19, 1802.*

MR. CHAIRMAN,

I must be allowed to express my surprise at the course pursued by the honorable gentleman from Virginia (Mr. Giles), in the remarks which he has made on the subject before us. I had expected that he would have adopted a different line of conduct. I had expected it as well from that sentiment of magnanimity which ought to have been inspired by a sense of the high ground he holds on the floor of this house, as from the professions of a desire to conciliate, which he has so repeatedly made during the session. We have been invited to bury the hatchet, and brighten the chain of peace. We were disposed to meet on middle ground. We had assurances from the gentleman that he would abstain from reflections on the past, and that his only wish was, that we might unite in future in promoting the welfare of our common country. We confided in the gentleman's sincerity, and cherished the hope, that if the divisions of party were not banished from the house, its spirit would be rendered less intemperate. Such were our impressions, when the mask was suddenly thrown aside, and we saw the torch of discord lighted and blazing before our eyes. Every effort has been made to revive the animosities of the house, and inflame the passions of the nation. I am at no loss to perceive why this course has been pursued. The gentleman has been unwilling to rely upon the strength of his subject, and has, therefore, determined to make the measure a party question. He has probably secured success; but would it not have been more honorable and more commendable to have left the decision of a great constitutional question to the understanding, and not to the prejudices of the house? It was my ardent wish to discuss the subject with calmness and deliberation; and I did intend

* See the preceding speech.

to avoid every topic which could awaken the sensibility of party. This was my temper and design when I took my seat yesterday. It is a course at present we are no longer at liberty to pursue. The gentleman has wandered far, very far, from the points of the debate, and has extended his animadversions to all the prominent measures of the former administrations. In following him through his preliminary observations, I necessarily lose sight of the bill upon your table.

The gentleman commenced his strictures with the philosophic observation, that it was the fate of mankind to hold different opinions as to the form of government which was preferable; that some were attached to the monarchical, while others thought the republican more eligible. This, as an abstract remark, is certainly true, and could have furnished no ground of offence, if it had not evidently appeared that an allusion was designed to be made to the parties in this country. Does the gentleman suppose that we have a less lively recollection than himself of the oath which we have taken to support the constitution; that we are less sensible of the spirit of our government, or less devoted to the wishes of our constituents? Whatever impression it might be the intention of the gentleman to make, he does not believe that there exists in the country an anti-republican party. He will not venture to assert such an opinion on the floor of this house. That there may be a few individuals having a preference for monarchy is not improbable; but will the gentleman from Virginia, or any other gentleman, affirm, in his place, that there is a party in the country who wish to establish monarchy? Insinuations of this sort belong not to the legislature of the union. Their place is an election-ground or an ale-house. Within these walls they are lost; abroad, they have had an effect, and I fear are still capable of abusing popular credulity.

We were next told of the parties which have existed, divided by the opposite views of promoting executive power and guarding the rights of the people. The gentleman did not tell us in plain language, but he wished it to be understood, that he and his friends were the guardians of the people's rights, and that we were the advocates of executive power.

I know that this is the distinction of party which some gentlemen have been anxious to establish; but it is not the ground on which we divide. I am satisfied with the constitutional powers of the executive, and never wished nor attempted to increase them; and I do not believe, that gentlemen on the other side of the house ever had a serious apprehension of danger from an increase of executive authority. No, sir; our views, as to the powers which do and ought to belong to the general and state governments, are the

true sources of our divisions. I coöperate with the party to which I am attached, because I believe their true object and end is an honest and efficient support of the general government, in the exercise of the legitimate powers of the constitution.

I pray to God I may be mistaken in the opinion I entertain as to the designs of gentlemen to whom I am opposed. Those designs I believe hostile to the powers of this government. State pride extinguishes a national sentiment. Whatever is taken from this government is given to the states.

The ruins of this government aggrandize the states. There are states which are too proud to be controlled; whose sense of greatness and resource renders them indifferent to our protection, and induces a belief, that if no general government existed, their influence would be more extensive, and their importance more conspicuous. There are gentlemen who make no secret of an extreme point of depression, to which the government is to be sunk. To that point we are rapidly progressing. But I would beg gentlemen to remember, that human affairs are not to be arrested in their course, at artificial points. The impulse now given may be accelerated by causes at present out of view. And when those, who now design well, wish to stop, they may find their powers unable to resist the torrent. It is not true, that we ever wished to give a dangerous strength to executive power. While the government was in our hands, it was our duty to maintain its constitutional balance, by preserving the energies of each branch. There never was an attempt to vary the relation of its powers. The struggle was to maintain the constitutional powers of the executive. The wild principles of French liberty were scattered through the country. We had our jacobins and disorganizers. They saw no difference between a king and a president; and as the people of France had put down their king, they thought the people of America ought to put down their president. They, who considered the constitution as securing all the principles of rational and practical liberty, who were unwilling to embark upon the tempestuous sea of revolution in pursuit of visionary schemes, were denounced as monarchists. A line was drawn between the government and the people, and the friends of the government were marked as the enemies of the people. I hope, however, that the government and the people are now the same; and I pray to God, that what has been frequently remarked may not, in this case, be discovered to be true, that they who have the name of the people the most often in their mouths, have their true interests the most seldom at their hearts.

The honorable gentleman from Virginia wandered to the very confines of the federal administration, in search of materials the most inflammable and most capable of kindling the passions of his party.

He represents the government as seizing the first moment which presented itself, to create a dependent moneyed interest, ever devoted to its views. What are we to understand by this remark of the gentleman? Does he mean to say, that congress did wrong in funding the public debt? Does he mean to say, that the price of our liberty and independence ought not to have been paid? Is he bold enough to denounce this measure as one of the federal victims marked for destruction? Is it the design to tell us, that its day has not yet come, but is approaching; and that the funding system is to add to the pile of federal ruins? Do I hear the gentleman say, We will reduce the army to a shadow; we will give the navy to the worms; the mint, which presented the people with the emblems of their liberty and of their sovereignty, we will abolish —the revenue shall depend upon the wind and waves, the judges shall be made our creatures, and the great work shall be crowned and consecrated by relieving the country from an odious and oppressive public debt? These steps, I presume, are to be taken in progression.

The gentleman will pause at each, and feel the public pulse. As the fever increases, he will proceed, and the moment of delirium will be seized to finish the great work of destruction.

The assumption of the state debts has been made an article of distinct crimination. It has been ascribed to the worst motives— to a design of increasing a dependent moneyed interest. Is it not well known, that those debts were part of the price of our revolution —that they rose in the exigency of our affairs, from the efforts of the particular states, at times when the federal arm could not be extended to their relief? Each state was entitled to the protection of the union; the defence was a common burden; and every state had a right to expect, that the expenses attending its individual exertions in the general cause would be reimbursed from the public purse. I shall be permitted further to add, that the United States, having absorbed the sources of state revenue, except direct taxation, which was required for the support of the state governments, the assumption of these debts was necessary to save some of the states from bankruptcy.

The internal taxes are made one of the crimes of the federal administration. They were imposed, says the gentleman, to create a host of dependants on executive favor. This supposes the past administrations to have been not only very wicked, but very weak. They lay taxes in order to strengthen their influence. Who is so ignorant as not to know, that the imposition of a tax would create a hundred enemies for one friend? The name of excise was odious; the details of collection were unavoidably expensive, and it was to operate upon a part of the community least disposed to support public burdens, and most ready to complain of their

weight. A little experience will give the gentleman a new idea of the patronage of this government. He will find it not that dangerous weapon in the hands of the administration which he has heretofore supposed it; he will probably discover that the poison is accompanied by its antidote, and that an appointment of the government, while it gives to the administration one lazy friend, will raise up against it ten active enemies. No! The motive ascribed for the imposition of the internal taxes is unfounded as it is uncharitable. The federal administration, in creating burdens to support the credit of the nation, and to supply the means of its protection, knew that they risked the favor of those upon whom their power depended. They were willing to be the victims, when the public good required.

The duties on imports and tonnage furnished a precarious revenue—a revenue at all times exposed to deficiency, from causes beyond our reach. The internal taxes offered a fund less liable to be impaired by accident; a fund which did not rob the mouth of labor, but was derived from the gratification of luxury. These taxes are an equitable distribution of the public burdens. Through this medium the western country is enabled to contribute something to the expenses of a government which has expended and daily expends such large sums for its defence. When these taxes were laid, they were indispensable. With the aid of them it has been difficult to prevent an increase of the public debt. And notwithstanding the fairy prospects which now dazzle our eyes, I undertake to say, if you abolish them this session, you will be obliged to restore them, or supply their place by a direct tax, before the end of two years. Will the gentleman say, that the direct tax was laid in order to enlarge the bounds of patronage? Will he deny, that this was a measure to which we had been urged for years by our adversaries, because they foresaw in it the ruin of federal power? My word for it, no administration will ever be strengthened by a patronage united with taxes which the people are sensible of paying.

We were next told, that, to get an army, an Indian war was necessary. The remark was extremely bald, as the honorable gentleman did not allege a single reason for the position. He did not undertake to state, that it was a wanton war, or provoked by the government. He did not even venture to deny, that it was a war of defence, and entered into in order to protect our brethren on the frontiers from the bloody scalping-knife and murderous tomahawk of the savage. What ought the government to have done? Ought they to have estimated the value of the blood which probably would be shed, and the amount of the devastation likely to be committed, before they determined on resistance? They raised an army, and after great expense and various fortune,

they have secured the peace and safety of the frontiers. But why was the army mentioned on this occasion, unless to forewarn us of the fate which awaits them, and to tell us, that their days are numbered? I cannot suppose that the gentleman mentioned this little army, distributed on a line of three thousand miles, for the purpose of giving alarm to three hundred thousand free and brave yeomanry, ever ready to defend the liberties of the country.

The honorable gentleman proceeded to inform the committee, that the government, availing itself of the depredations of the Algerines, created a navy. Did the gentleman mean to insinuate, that this war was invited by the United States? Has he any documents or proof to render the suspicion colorable? No, sir; he has none. He well knows, that the Algerine aggressions were extremely embarrassing to the government. When they commenced, we had no marine force to oppose to them. We had no harbors or places of shelter in the Mediterranean. A war with these pirates could be attended with neither honor nor profit. It might cost a great deal of blood, and in the end it might be feared, that a contest so far from home, subject to numberless hazards and difficulties, could not be maintained. What would gentlemen have had the government to do? I know there are those who are ready to answer—Abandon the Mediterranean trade. But would this have done? The corsairs threatened to pass the Straits, and were expected in the Atlantic. Nay, sir, it was thought that our very coasts would not have been secure.

Will gentlemen go farther, and say, that the United States ought to relinquish their commerce? I believe this opinion has high authority to support it. It has been said, that we ought to be only cultivators of the earth, and make the nations of Europe our carriers.

This is not an occasion to examine the solidity of this opinion; but I will only ask, admitting the administration were disposed to turn the pursuits of the people of this country from the ocean to the land, whether there is a power in the government, or whether there would be, if we were as strong as the government of Turkey, or even of France, to accomplish the object. With a sea-coast of seventeen hundred miles, with innumerable harbors and inlets, with a people enterprising beyond example, is it possible to say, you will have no ships, or sailors, or merchants? The people of this country will never consent to give up their navigation, and every administration will find themselves constrained to provide means to protect their commerce.

In respect to the Algerines, the late administrations were singularly unfortunate. They were obliged to fight or pay them. The true policy was to hold a purse in one hand and a sword in the other. This was the policy of the government. Every

commercial nation in Europe was tributary to these petty barbarians. It was not esteemed disgraceful. It was an affair of calculation, and the administration made the best bargain in their power. They have heretofore been scandalized for paying tribute to a pirate, and now they are criminated for preparing a few frigates to protect our citizens from slavery and chains. Sir, I believe, on this and many other occasions, if the finger of Heaven had pointed out a course, and the government had pursued it, yet that they would not have escaped the censure and reproaches of their enemies.

We were told, that the disturbances in Europe were made a pretext for augmenting the army and navy. I will not, Mr. Chairman, at present go into a detailed view of the events which compelled the government to put on the armor of defence, and to resist by force the French aggressions. All the world know the efforts which were made to accomplish an amicable adjustment of differences with that power. It is enough to state, that ambassadors of peace were twice repelled from the shores of France with ignominy and contempt. It is enough to say, that it was not till after we had drunk the cup of humiliation to the dregs, that the national spirit was roused to a manly resolution to depend only on their God and their own courage for protection. What, sir, did it grieve the gentleman, that we did not crouch under the rod of the Mighty Nation, and, like the petty powers of Europe, tamely surrender our independence? Would he have had the people of the United States relinquish, without a struggle, those liberties which had cost so much blood and treasure? We had not, sir, recourse to arms till the mouths of our rivers were choked with French corsairs; till our shores, and every harbor, were insulted and violated; till our commercial capital had been seized, and no safety existed for the remainder but the protection of force. At this moment, a noble enthusiasm electrized the country; the national pulse beat high, and we were prepared to submit to every sacrifice, determined only that our independence should be the last. At that time, an American was a proud name in Europe; but I fear, much I fear, that in the course we are now likely to pursue, the time will soon arrive when our citizens abroad will be ashamed to acknowledge their country.

The measures of '98 grew out of the public feelings. They were loudly demanded by the public voice. It was the people who drove the government to arms, and not, as the gentleman expressed it, the government which pushed the people to the X. Y. Z. of their political designs before they understood the A. B. C. of their political principles.

But what, sir, did the gentleman mean by his X. Y. Z.? I must look for something very significant, something more than a

quaintness of expression, or a play upon words, in what falls from a gentleman of his learning and ability. Did he mean that the despatches which contained those letters were impostures, designed to deceive and mislead the people of America?—intended to rouse a false spirit not justified by events? Though the gentleman had no respect for some of the characters of that embassy; though he felt no respect for the chief justice, or the gentleman appointed from South Carolina, two characters as pure, as honorable and exalted, as any the country can boast of, yet I should have expected that he would have felt some tenderness for Mr. Gerry, in whom his party had since given proofs of undiminished confidence. Does the gentleman believe that Mr. Gerry would have joined in the deception, and assisted in fabricating a tale which was to blind his countrymen and to enable the government to destroy their liberties? Sir, I will not avail myself of the equivocations or confessions of Talleyrand himself; I say these gentlemen will not dare publicly to deny what is attested by the hand and seal of Mr. Gerry.

The truth of these despatches admitted, what was your government to do? Give us, say the directory, one million two hundred thousand livres for our own purse, and purchase fifteen millions of dollars of Dutch debt (which was worth nothing), and we will receive your ministers and negotiate for peace.

It was only left to the government to choose between an unconditional surrender of the honor and independence of the country, or a manly resistance. Can you blame, sir, the administration for a line of conduct which has reflected on the nation so much honor, and to which, under God, it owes its present prosperity?

These are the events of the general government, which the gentleman has reviewed in succession, and endeavored to render odious or suspicious. For all this I could have forgiven him; but there is one thing for which I will not, I cannot forgive him. I mean his attempt to disturb the ashes of the dead; to disturb the ashes of the great and good Washington. Sir, I might degrade by attempting to eulogize this illustrious character. The work is infinitely beyond my powers. I will only say that as long as exalted talents and virtues confer honor among men, the name of Washington will be held in veneration.

After, Mr. Chairman, the honorable member had exhausted one quiver of arrows against the late executive, he opened another, equally poisoned, against the judiciary. He has told us, sir, that when the power of the government was rapidly passing from federal hands, after we had heard the thundering voice of the people which dismissed us from their service, we erected a judiciary, which we expected would afford us the shelter of an inviolable

sanctuary. The gentleman is deceived. We knew better, sir, the characters who were to succeed us; and we knew that nothing was sacred in the eyes of infidels. No, sir, I never had a thought that any thing belonging to the federal government was holy in the eyes of those gentlemen. I could never, therefore, imagine that a sanctuary could be built up which would not be violated. I believe these gentlemen regard public opinion because their power depends upon it; but I believe they respect no existing establishment of the government, and if public opinion could be brought to support them, I have no doubt they would annihilate the whole. I shall at present only say further on this head, that we thought the reorganization of the judicial system a useful measure, and we considered it as a duty to employ the remnant of our power to the best advantage of the country.

The honorable gentleman expressed his joy that the constitution had at last become sacred in our eyes; that we formerly held that it meant every thing or nothing. I believe, sir, that the constitution formerly appeared different in our eyes from what it now appears in the eyes of the dominant party. We formerly saw in it the principles of a fair and goodly creation. We looked upon it as a source of peace, of safety, of honor and of prosperity to the country. But now the view is changed; it is the instrument of wild and dark destruction. It is a weapon which is to prostrate every establishment, to which the nation owes the unexampled blessings which it enjoys.

The present state of the country is an unanswerable commentary upon our construction of the constitution. It is true that we made it mean much, and I hope, sir, we shall not be taught by the present administration that it can mean even worse than nothing.

The gentleman has not confined his animadversions to the individual establishment, but has gone so far as to make the judges the subject of personal invective. They have been charged with having transgressed the bounds of judicial duty, and become the apostles of a political sect. We have heard of their travelling about the country for little other purpose than to preach the federal doctrines to the people.

Sir, I think a judge should never be a partisan. No man would be more ready to condemn a judge who carried his political prejudices or antipathies on the bench. But I have still to learn that such a charge can be sustained against the judges of the United States.

The constitution is the supreme law of the land, and they have taken pains, in their charges to grand juries, to unfold and explain its principles. Upon similar occasions, they have enumerated the laws which compose our criminal code, and when some of those

laws have been denounced by the enemies of the administration as unconstitutional, the judges may have felt themselves called upon to express their judgments upon that point, and the reasons of their opinions.

So far, but no farther, I believe, the judges have gone: in going thus far, they have done nothing more than faithfully discharge their duty.

But if, sir, they have offended against the constitution or laws of the country, why are they not impeached? The gentleman now holds the sword of justice: the judges are not a privileged order; they have no shelter but their innocence.

But in any view are the sins of the former judges to be fastened upon the new judicial system? Would you annihilate a system, because some men under part of it had acted wrong? The constitution has pointed out a mode of punishing and removing the men, and does not leave this miserable pretext for the wanton exercise of powers which is now contemplated.

The honorable member has thought himself justified in making a charge of a serious and frightful nature against the judges. They have been represented going about searching out victims of the sedition law. But no fact has been stated; no proof has been adduced, and the gentleman must excuse me for refusing my belief to the charge till it is sustained by stronger and better ground than assertion.

If, however, Mr. Chairman, the eyes of the gentleman are delighted with victims—if objects of misery are grateful to his feelings—let me turn his view from the walks of the judges to the track of the present executive. It is in this path we see the real victims of stern, uncharitable, unrelenting power. It is here, sir, we see the soldier who fought the battles of the revolution; who spilt his blood and wasted his strength to establish the independence of his country, deprived of the reward of his services, and left to pine in penury and wretchedness. It is along this path that you may see helpless children crying for bread, and gray hairs sinking in sorrow to the grave. It is here that no innocence, no merit, no truth, no services, can save the unhappy sectary who does not believe in the creed of those in power. I have been forced upon this subject; and before I leave it, allow me to remark, that without inquiring into the right of the president to make vacancies in office, during the recess of the senate, but admitting the power to exist, yet that it never was given by the constitution to enable the chief magistrate to punish the insults, to revenge the wrongs, or to indulge the antipathies of the man. If the discretion exists, I have no hesitation in saying that it is abused when exercised from any other motives than the public good. And when I see the will of a president precipitating

from office men of probity, knowledge and talents, against whom the community has no complaint, I consider it as a wanton and dangerous abuse of power. And when I see men who have been the victims of this abuse of power, I view them as the proper objects of national sympathy and commiseration.

Among the causes of impeachment against the judges is their attempt to force the sovereignties of the states to bow before them. We have heard them called an ambitious body politic; and the fact I allude to has been considered as full proof of the inordinate ambition of the body.

Allow me to say, sir, the gentleman knows too much not to know that the judges are not a body politic. He supposed, perhaps, there was an odium attached to the appellation, which it might serve his purposes to connect with the judges. But, sir, how do you derive any evidence of the ambition of the judges from their decision, that the states under our federal compact were compellable to do justice? Can it be shown, or even said, that the judgment of the court was a false construction of the constitution? The policy of later times, on this point, has altered the constitution, and, in my opinion, has obliterated its fairest feature. I am taught by my principles, that no power ought to be superior to justice. It is not that I wish to see the states humbled in dust and ashes; it is not that I wish to see the pride of any man flattered by their degradation; but it is that I wish to see the great and the small, the sovereign and the subject, bow at the altar of justice, and submit to those obligations from which the Deity himself is not exempt. What was the effect of this provision in the constitution? It prevented the states being the judges in their own cause, and deprived them of the power of denying justice. Is there a principle of ethics more clear, than that a man ought not to be a judge in his own cause? and is not the principle equally strong when applied, not to one man, but to a collective body? It was the happiness of our situation which enabled us to force the greatest state to submit to the yoke of justice; and it would have been the glory of the country in the remotest times, if the principle in the constitution had been maintained. What had the states to dread? Could they fear injustice when opposed to a feeble individual? Has a great man reason to fear from a poor one? And could a potent state be alarmed by the unfounded claim of a single person? For my part, I have always thought that an independent tribunal ought to be provided, to judge on the claims against this government. The power ought not to be in our own hands. We are not impartial, and are therefore liable, without our knowledge, to do wrong. I never could see why the whole community should not be bound by as strong an obligation to do justice to an individual, as one man is bound to do it to another.

In England the subject has a better chance for justice against the sovereign, than in this country a citizen has against a state. The crown is never its own arbiter; and they who sit in judgment have no interest in the event of their decision.

The judges, sir, have been criminated for their conduct in relation to the sedition act, and have been charged with searching for victims who were sacrificed under it. The charge is easily made; but has the gentleman the means of supporting it? It was the evident design of the gentleman to attach the odium of the sedition law to the judiciary; on this score the judges are surely innocent. They did not pass the act; the legislature made the law, and they were obliged by their oaths to execute it. The judges decided the law to be constitutional, and I am not now going to agitate the question. I did hope, when the law passed, that its effect would be useful. It did not touch the freedom of speech, and was designed only to restrain the enormous abuses of the press. It went no further than to punish malicious falsehoods, published with the wicked intention of destroying the government. No innocent man ever did or could have suffered under the law. No punishment could be inflicted till a jury was satisfied that a publication was false, and that the party charged, knowing it to be false, had published it with an evil design.

The misconduct of the judges, however, on this subject, has been considered by the gentleman the more aggravated, by an attempt to extend the principles of the sedition act, by an adoption of those of the common law. Connected with this subject, such an attempt was never made by the judges. They have held, generally, that the constitution of the United States was predicated upon an existing common law. Of the soundness of that opinion I never had a doubt. I should scarcely go too far, were I to say, that, stripped of the common law, there would be neither constitution nor government. The constitution is unintelligible without reference to the common law. And were we to go into our courts of justice, with the mere statutes of the United States, not a step could be taken, not even a contempt could be punished. Those statutes prescribe no forms of pleadings; they contain no principles of evidence; they furnish no rule of property. If the common law does not exist in most cases, there is no law but the will of the judge.

I have never contended that the whole of the common law attached to the constitution, but only such parts as were consonant to the nature and spirit of our government. We have nothing to do with the law of the ecclesiastical establishment, nor with any principle of monarchical tendency. What belongs to us, and what is unsuitable, is a question for the sound discretion of the judges. The principle is analogous to one which is found in the writings of

all jurists and commentators. When a colony is planted, it is established subject to such parts of the law of the mother country as are applicable to its situation. When our forefathers colonized the wilderness of America, they brought with them the common law of England. They claimed it as their birthright, and they left it as the most valuable inheritance to their children. Let me say, that this same common law, now so much despised and vilified, is the cradle of the rights and liberties which we now enjoy. It is to the common law we owe our distinction from the colonists of France, of Portugal, and of Spain. How long is it since we have discovered the malignant qualities which are now ascribed to this law? Is there a state in the union which has not adopted it, and in which it is not in force? Why is it refused to the federal constitution? Upon the same principle that every power is denied which tends to invigorate the government. Without this law the constitution becomes, what perhaps many gentlemen wish to see it, a dead letter.

For ten years it has been the doctrine of our courts, that the common law was in force; and yet can gentlemen say, that there has been a victim who has suffered under it? Many have experienced its protection; none can complain of its oppression.

In order to demonstrate the aspiring ambition of this body politic, the judiciary, the honorable gentleman stated with much emphasis and feeling, that the judges had been hardy enough to send their mandate into the executive cabinet. Was the gentleman, sir, acquainted with the fact when he made this statement? It differs essentially from what I know I have heard upon the subject. I shall be allowed to state the fact.

Several commissions had been made out by the late administration for justices of the peace of this territory. The commissions were complete; they were signed and sealed, and left with the clerks of the office of state to be handed to the persons appointed. The new administration found them on the clerk's table, and thought proper to withhold them. These officers are not dependent on the will of the president. The persons named in the commissions considered that their appointments were complete, and that the detention of their commissions was a wrong, and not justified by the legitimate authority of the executive. They applied to the supreme court for a rule upon the secretary of state, to show cause why a *mandamus* should not issue, commanding him to deliver up the commissions. Let me ask, sir, what could the judges do? The rule to show cause was a matter of course upon a new point, at the least doubtful. To have denied it, would have been to shut the doors of justice against the parties. It concludes nothing, neither the jurisdiction nor the regularity of the act. The judges did their duty; they gave an honorable proof of their in-

dependence. They listened to the complaint of an individual against your president, and have shown themselves disposed to grant redress against the greatest man in the government. If a wrong has been committed, and the constitution authorizes their interference, will gentlemen say that the secretary of state, or even the president, is not subject to law? And if they violate the law, where can we apply for redress but to our courts of justice? But, sir, it is not true that the judges issued their mandate to the executive; they have only called upon the secretary of state to show them that what he has done is right. It is but an incipient proceeding, which decides nothing.

[Mr. Giles rose to explain.—He said, that the gentleman from Delaware had ascribed to him many things which he did not say, and had afterwards undertaken to refute them. He had only said that mandatory process had issued; that the course pursued by the court indicated a belief by them that they had jurisdiction, and that, in the event of no cause being shown, a *mandamus* would issue. Mr. Bayard then continued:]

I stated the gentleman's words as I took them down. It is immaterial whether the mistake was in the gentleman's expression, or in my understanding. He has a right to explain, and I will take his position as he now states it. I deny, sir, that mandatory process has issued. Such process would be imperative, and suppose a jurisdiction to exist; the proceeding which has taken place, is no more than notice of the application for justice made to the court, and allows the party to show either that no wrong has been committed, or that the court has no jurisdiction over the subject. Even, sir, if the rule were made absolute, and the *mandamus* issued, it would not be definitive; but it would be competent for the secretary, in a return to the writ, to justify the act which has been done, or to show that it is not a subject of judicial cognizance.

It is not till after an insufficient return, that a peremptory *mandamus* issues. In this transaction, so far from seeing any thing culpable in the conduct of your judges, I think, sir, that they have given a strong proof of the value of that constitutional provision which makes them independent. They are not terrified by the frowns of executive power, and dare to judge between the rights of a citizen and the pretensions of a president.

I believe, Mr. Chairman, I have gone through most of the preliminary remarks which the honorable gentleman thought proper to make, before he proceeded to the consideration of those points which properly belong to the subject before the committee. I have not supposed the topics I have been discussing had any connection with the bill on your table; but I felt it as a duty not to leave unanswered charges against the former administrations and

our judges, of the most insidious tendency, which I know to be unfounded, and which were calculated and designed to influence the decision on the measure now proposed. Why, Mr. Chairman, has the present subject been combined with the army, the navy, the internal taxes, and the sedition law? Was it to involve them in one common odium, and to consign them to one common fate? Do I see in the preliminary remarks of the honorable member the title-page of the volume of measures which are to be pursued? Are gentlemen sensible of the extent to which it is designed to lead them? They are now called on to reduce the army, to diminish the navy, to abolish the mint, to destroy the independence of the judiciary; and will they be able to stop when they are next required to blot out the public debt, that hateful source of moneyed interest and aristocratic influence? Be assured, sir, we see but a small part of the system which has been formed. Gentlemen know the advantage of progressive proceedings; and my life for it, if they can carry the people with them, their career will not be arrested while a trace remains of what was done by the former administration.

There was another remark of the honorable member which I must be allowed to notice. The pulpit, sir, has not escaped invective. The ministers of the gospel have been represented, like the judges, forgetting the duties of their calling, and employed in disseminating the heresies of federalism. Am I then, sir, to understand that religion is also denounced, and that your churches are to be shut up? Are we to be deprived, sir, both of law and gospel? Where do the principles of the gentleman end? When the system of reform is completed, what will remain? I pray God that this flourishing country, which, under his providence, has attained such a height of prosperity, may yet escape the desolation suffered by another nation by the practice of similar doctrines.

I beg pardon of the committee for having consumed so much time upon points little connected with the subject of the debate. Till I heard the honorable member from Virginia yesterday, I was prepared only to discuss the merits of the bill upon which you are called to vote. His preliminary remarks were designed to have an effect which I deemed it material to endeavor to counteract; and I therefore yielded to the necessity of pursuing the course he had taken, though I was conscious of departing very far from the subject before the committee. To the discussion of that subject, I now return with great satisfaction, and shall consider it under the two views it naturally presents—the constitutionality and the expediency of the measure. I find it most convenient to consider, first, the question of expediency, and shall, therefore, beg permission to invert the natural order of the inquiry.

To show the inexpediency of the present bill, I shall endeavor

to prove the expediency of the judicial law of the last session. In doing this, it will be necessary to take a view of the leading features of the preëxisting system, to inquire into its defects, and to examine how far the evils complained of were remedied by the provisions of the late act. It is not my intention to enter into the details of the former system; it can be necessary only to state so much as will distinctly show its defects.

There existed, sir, a supreme court having original cognizance in a few cases, but principally a court of appellate jurisdiction. This was the great national court of dernier resort. Before this tribunal questions of unlimited magnitude and consequence, both of a civil and political nature, received their final decision; and I may be allowed to call it the national crucible of justice, in which the judgments of inferior courts were to be reduced to their elements, and cleansed from every impurity. There was a circuit court, composed in each district of a judge of the supreme court and the district judge. This was the chief court of business both of a civil and criminal nature.

In each district, a court was established for affairs of revenue, and of admiralty and maritime jurisdiction. It is not necessary, for the purposes of the present argument, to give a more extensive outline of the former plan of our judiciary. We discover that the judges of the supreme court, in consequence of their composing a part of the circuit courts, were obliged to travel from one extremity to the other of this extensive country. In order to be in the court-house two months in the year, they were forced to be upon the road six. The supreme court, being the court of last resort, having final jurisdiction over questions of incalculable importance, ought certainly to be filled with men not only of probity, but of great talents, learning, patience and experience. The union of these qualities is rarely, very rarely, found in men who have not passed the meridian of life. My lord Coke tells us, no man is fit to be a judge till he has numbered the lucubrations of twenty years. Men of studious habits are seldom men of strong bodies. In the course of things, it could not be expected, that men, fit to be judges of your supreme courts, would be men capable of traversing the mountains and wildernesses of this extensive country. It was an essential and great defect in this court, that it required in men the combination of qualities which it is a phenomenon to find united. It required that they should possess the learning and experience of years, and the strength and activity of youth. I may say further, Mr. Chairman, that this court, from its constitution, tended to deterioration and not to improvement. Your judges, instead of being in their closets, and increasing, by reflection and study, their stock of wisdom and knowledge, had not even the means of repairing the ordinary waste of time. Instead

of becoming more learned and more capable, they would gradually lose the fruits of their former industry. Let me ask, if this was not a vicious construction of a court of the highest authority and greatest importance in the nation—in a court from which no one had an appeal, and to whom it belonged to establish the leading principles of national jurisprudence.

In the constitution of this court, as a court of last resort, there was another essential defect. The appeals to this court are from the circuit courts. The circuit court consists of the district judge and a judge of the supreme court. In cases where the district judge is interested, where he has been counsel, and where he has decided in the court below, the judge of the supreme court alone composes the circuit court. What, then, is substantially the nature of this appellate jurisdiction? In truth and practice, the appeal is from a member of a court to the body of the same court. The circuit courts are but emanations of the supreme court. Cast your eyes on the supreme court; you see it disappear, and its members afterwards arising in the shape of circuit judges. Behold the circuit judges; they vanish, and immediately you perceive the form of the supreme court appearing. There is, sir, a magic in this arrangement, which is not friendly to justice. When the supreme court assembles, appeals come from the various circuits of the United States. There are appeals from the decisions of each judge. The judgments of each member pass in succession under the revision of the whole body. Will not a judge, while he is examining the sentence of a brother to-day, remember that that brother will sit in judgment upon his proceedings to-morrow? Are the members of a court thus constituted free from all motive, exempt from all bias, which could even remotely influence opinion on the point of strict right; and yet let me ask, emphatically, whether this court, being the court of final resort, should not be so constituted, that the world should believe, and every suitor be satisfied, that, in weighing the justice of a cause, nothing entered the scales but its true merits.

Your supreme court, sir, I have never considered as any thing more than the judges of assize sitting in bank. It is a system with which, perhaps, I should find no fault, if the judges sitting in bank did not exercise a final jurisdiction. Political institutions should be so calculated as not to depend upon the virtues, but to guard against the vices and weaknesses of men. It is possible, that a judge of the supreme court would not be influenced by the *esprit du corps*, that he would neither be gratified by the affirmance, nor mortified by the reversal of his opinions; but this, sir, is estimating the strength and purity of human nature upon a possible, but not on its ordinary scale.

I believe, Mr. Chairman, that, in practice, the formation of the

supreme court frustrated, in a great degree, the design of its institution. I believe that many suitors were discouraged from seeking a revision of the opinions of the circuit court, by a deep impression of the difficulties to be surmounted in obtaining the reversal of the judgment of a court from the brethren of the judge who pronounced the judgment. The benefit of a court of appeals, well constituted, is not confined to the mere act of reviewing the sentence of an inferior court, but is more extensively useful by the general operation of the knowledge of its existence upon inferior courts. The power of uncontrollable decision is of the most delicate and dangerous nature. When exercised in the courts, it is more formidable than by any other branch of our government. It is the judiciary only, which can reach the person, the property or life of an individual. The exercise of their power is scattered over separate cases, and creates no common cause. The great safety under this power arises from the right of appeal. A sense of this right combines the reputation of the judge with the justice of the cause. In my opinion, it is a strong proof of the wisdom of a judicial system, when few causes are carried into the court of the last resort. I would say, if it were not paradoxical, that the very existence of a court of appeals ought to destroy the occasion for it. The conscience of the judge, sir, will, no doubt, be a great check upon him in the unbounded field of discretion created by the uncertainty of law; but I should, in general cases, more rely upon the effect produced by his knowledge, that an inadvertent or designed abuse of power was liable to be corrected by a superior tribunal. A court of appellate jurisdiction, organized upon sound principles, should exist, though few causes arose for their decision; for it is surely better to have a court and no causes, than to have causes and no court. I now proceed, sir, to consider the defects which are plainly discernible, or which have been discovered by practice in the constitution of the circuit courts.

These courts, from information which I have received, I apprehend, were originally constructed upon a fallacious principle. I have heard it stated, that the design of placing the judges of the supreme court in the circuit courts, was to establish uniform rules of decision throughout the United States. It was supposed that the presiding judges of the circuit courts, proceeding from the same body, would tend to identify the principles and rules of decision in the several districts. In practice a contrary effect has been discovered to be produced by the peculiar organization of these courts. In practice we have found not only a want of uniformity of rule between the different districts, but no uniformity of rule in the same district. No doubt there was a uniformity in the decisions of the same judge; but as the same judge seldom sat twice successively in the same district, and sometimes not till after an

interval of two or three years, his opinions were forgotten or reversed before he returned. The judges were not educated in the same school. The practice of the courts, the forms of proceeding, as well as the rules of property, are extremely various in the different quarters of the United States. The lawyers of the Eastern, the Middle and Southern States, are scarcely professors of the same science. These courts were in a state of perpetual fluctuation. The successive terms gave you courts, in the same district, as different from each other as those of Connecticut and Virginia. No system of practice could grow up, no certainty of rule could be established. The seeds sown in one term scarcely vegetated before they were trodden under foot. The condition of a suitor was terrible; the ground was always trembling under his feet. The opinion of a former judge was no precedent to his successor. Each considered himself bound to follow the light of his own understanding. To exemplify these remarks, I will take the liberty of stating a case which came under my own observation. An application before one judge was made to quash an attachment in favor of a subsequent execution creditor; the application was resisted upon two grounds, and the learned judge, to whom the application was first made, expressing his opinion in support of both grounds, dismissed the motion. At the succeeding court, a different judge presided; and the application was renewed and answered upon the same grounds. The second learned judge was of opinion, that one point had no validity, but he considered the other sustainable, and was about also to dismiss the motion, but, upon being pressed, at last consented to grant a rule to show cause. At the third term, a third learned judge was on the bench, and though the case was urged upon its former principles, he was of opinion, that both answers to the application were clearly insufficient, and accordingly quashed the attachment. When the opinions of his predecessors were cited, he replied that every man was to be saved by his own faith.

Upon the opinion of one judge, a suitor would set out in a long course of proceedings, and after losing much time and wasting much money, he would be met by another judge, who would tell him he had mistaken his road, that he must return to the place from which he started, and pursue a different track. Thus it happened as to the chancery process, to compel the appearance of a defendant. Some of the judges considered themselves bound by the rules in the English books, while others conceived that a power belonged to the court, upon the service of a subpœna, to make a short rule for the defendant to appear and answer, or that the bill should be taken *pro confesso*. A case of this kind occurred where much embarrassment was experienced. In the circuit court for the district of Pennsylvania, a bill in chancery was filed

against a person, who then happened to be in that district, but whose place of residence was in the North-Western Territory. The subpœna was served, but there was no answer nor appearance. The court to which the writ was returned, without difficulty, upon an application, granted a rule for the party to appear and answer at the expiration of a limited time, or that the bill be taken *pro confesso*. A personal service of this rule being necessary, the complainant was obliged to hire a messenger to travel more than a thousand miles to serve a copy of the rule. At the ensuing court, affidavit was made of the service, and a motion to make the rule absolute. The scene immediately changed; a new judge presided, and it was no longer the same court.

The authority was called for, to grant such a rule: was it warranted by any act of congress, or by the practice of the state? It was answered, There is no act of congress; the state has no court of chancery. But this proceeding was instituted, and has been brought to its present stage, at considerable expense, under the direction of this court. The judge knew of no power the court had to direct the proceeding, and he did not consider, that the complainant could have a decree upon his bill, without going through the long train of process, found in the books of chancery practice. The complainant took this course, and, at a future time, was told by another judge, that he was incurring an unnecessary loss of time and money, and that a common rule would answer his purpose. I ask you, Mr. Chairman, if any system could be devised more likely to produce vexation and delay? Surely, sir, the law is uncertain enough in itself, and its paths sufficiently intricate and tedious, not to require, that your suitors should be burdened with additional embarrassments by the organization of your courts.

The circuit is the principal court of civil and criminal business: the defects of this court were, therefore, most generally and sensibly felt. The high characters of the judges at first brought suitors into the courts, but the business was gradually declining, though causes belonging to the jurisdiction of the courts were multiplying; the continual oscillation of the court baffled all conjecture as to the correct course of the proceeding, or the event of a cause. The law ceased to be a science. To advise your client, it was less important to be skilled in the books than to be acquainted with the character of the judge who was to preside. When the term approached, the inquiry was, What judge are we to have? What is his character as a lawyer? Is he acquainted with chancery law? Is he a strict, common lawyer, or a special pleader?

When the character of the judge was ascertained, gentlemen would then consider the nature of their causes—determine whether it was more advisable to use means to postpone or to bring them to a hearing.

The talents of the judges rather increased the evil, than afforded a corrective for the vicious constitution of these courts. They had not drawn their knowledge from the same sources: their systems were different, and hence the character of the court more essentially changed at each successive term. These difficulties and embarrassments banished suitors from the court, and without more than a common motive, recourse was seldom had to the federal tribunals.

I have ever considered it, also, as a defect in this court, that it was composed of judges of the highest and lowest grades. This, sir, was an unnatural association; the members of the court stood on ground too unequal to allow the firm assertion of his opinion to the district judge. Instead of being elevated, he felt himself degraded by a seat upon the bench of this court. In the district court he was every thing; in the circuit court he was nothing. Sometimes he was obliged to leave his seat, while his associate reviewed the judgment which he had given in the court below. In all cases, he was sensible, that the sentences in the court in which he was, were subject to the revision and control of a superior jurisdiction, where he had no influence, but the authority of which was shared by the judge with whom he was acting. No doubt, in some instances, the district judge was an efficient member of this court; but this never arose from the nature of the system, but from the personal character of the man. I have yet, Mr. Chairman, another fault to find with the ancient establishment of the circuit courts. They consisted only of two judges, and sometimes of one. The number was too small, considering the extent and importance of the jurisdiction of the court. Will you remember, sir, that they hold the power of life and death, without appeal? that these judgments were final over sums of two thousand dollars, and their original jurisdiction restrained by no limits of value? and that this was the court to which appeals were carried from the district court?

I have often heard, sir, that in a multitude of counsel there was wisdom, and if the converse of the maxim be equally true, this court must have been very deficient. When we saw a single judge reversing the judgment of the district court, the objection was most striking; but the court never had the weight which it ought to have possessed, and would have enjoyed, had it been composed of more members.

But two judges belonging to the court, an inconvenience was sometimes felt from a division of their opinions. And this inconvenience was but poorly obviated by the provision of the law, that, in such cases, the cause should be continued to the succeeding term, and receive its decision from the opinion of the judge who should then preside.

I do not pretend, Mr. Chairman, to have enumerated all the

defects which belonged to the former judicial system. But I trust, those which I have pointed out, in the minds of candid men, will justify the attempt of the legislature to revise that system, and to make a fairer experiment of that part of the plan of our constitution which regards the judicial power. The defects, sir, to which I have alluded, had been a long time felt and often spoken of. Remedies had frequently been proposed. I have known the subject brought forward in congress, or agitated in private, ever since I have had the honor of a seat upon this floor. I believe, sir, a great and just deference for the author of the ancient scheme prevented any innovation upon its material principles; there was no gentleman who felt that deference more than myself, nor should I have ever hazarded a change upon speculative opinion. But practice had discovered defects which might well escape the most discerning mind in planning the theory. The original system could not be more than experiment: it was built upon no experience. It was the first application of principles to a new state of things. The first judicial law displays great ability, and it is no disparagement of the author, to say its plan is not perfect.

I know, sir, that some have said, and perhaps not a few have believed, that the new system was introduced not so much with a view to its improvement of the old, as to the places which it provided for the friends of the administration. This is a calumny so notoriously false, and so humble, as not to require nor to deserve an answer upon this floor. It cannot be supposed that the paltry object of providing for sixteen unknown men could have ever offered an inducement to a great party basely to violate their duty; meanly to sacrifice their character; and foolishly to forego all future hopes.

I now come, Mr. Chairman, to examine the changes which were made by the late law. This subject has not been correctly understood. It has every where been erroneously represented. I have heard much said about the additional courts created by the act of last session. I perceive them spoken of in the president's message. In the face of this high authority, I undertake to state that no additional court was established by that law. Under the former system there was one supreme court, and there is but one now. There were seventeen district courts, and there are no more now. There was a circuit court held in each district, and such is the case at present. Some of the district judges are directed to hold their courts at new places, but there is still in each district but one district court. What, sir, has been done? The unnatural alliance between the supreme and district courts has been severed, but the jurisdiction of both those courts remains untouched. The power or authority of neither of them has been augmented or diminished. The jurisdiction of the circuit court has been extended to the cog-

nizance of debts of four hundred dollars, and this is the only material change in the power of that court. The chief operation of the late law is a new organization of the circuit courts. To avoid the evils of the former plan, it became necessary to create a new corps of judges. It was considered that the supreme court ought to be stationary, and to have no connection with the judges over whose sentences they had an appellate jurisdiction.

To have formed a circuit court out of the district judges would have allowed no court of appeal from the district court, except the supreme court, which would have been attended with great inconvenience. But this scheme was opposed by a still greater difficulty. In many districts the duties of the judge require a daily attention. In all of them business of great importance may, on unexpected occurrences, require his presence.

This plan was thought of; it was well examined, and finally rejected in consequence of strong objections to which it was liable. Nothing therefore remained but to compose the circuit court of judges distinct from those of the other courts. Admitting the propriety of excluding from this court the judges of the supreme and district courts, I think the late congress cannot be accused of any wanton expense, nor even of a neglect of economy in the new establishment. This extensive country has been divided into six circuits, and three judges appointed for each circuit. Most of the judges have twice a year to attend a court in three states, and there is not one of them who has not to travel further, and who, in time, will not have more labor to perform than any judge of the state courts. When we call to mind that the jurisdiction of this court reaches the life of the citizen, and that in civil cases its judgments are final to a large amount, certainly it will not be said that it ought to have been composed of less than three judges. One was surely not enough, and if it had been doubtful whether two were not sufficient, the inconvenience which would have frequently arisen from an equal division of opinion, justifies the provision which secures a determination in all cases.

It was additionally very material to place on the bench of this court a judge from each state, as the court was in general bound to conform to the law and the practice of the several states.

I trust, sir, the committee are satisfied that the number of judges which compose the circuit court is not too great, and that the legislature would have been extremely culpable to have committed the high powers of this court to fewer hands. Let me now ask, if the compensation allowed to these judges is extravagant. It is little more than half the allowance made to the judges of the supreme court. It is but a small proportion of the ordinary practice of those gentlemen of the bar who are fit, and to whom we ought to look to fill the places. You have given a salary of two thousand

dollars. The puisne judges of Pennsylvania, I believe, have more. When you deduct the expenses of the office, you will leave but a moderate compensation for service, but a scanty provision for a family. When, Mr. Chairman, gentlemen coolly consider the amendments of the late law, I flatter myself their candor will at least admit that the present modification was fairly designed to meet and remedy the evils of the old system.

The supreme court has been rendered stationary. Men of age, of learning, and of experience, are now capable of holding a seat on the bench; they have time to mature their opinions in causes on which they are called to decide, and they have leisure to devote to their books, and to augment their store of knowledge. It was our hope, by the present establishment of the court, to render it the future pride, and honor, and safety of the nation. It is this tribunal which must stamp abroad the judicial character of our country. It is here that ambassadors and foreign agents resort for justice; and it belongs to this high court to decide finally, not only on controversies of unlimited value between individuals, and on the more important collision of state pretensions, but also upon the validity of the laws of the state, and of this government. Will it be contended that such great trusts ought to be reposed in feeble or incapable hands? It has been asserted that this court will not have business to employ it. The assertion is supported neither by what is past, nor by what is likely to happen. During the present session of congress, at their last term, the court was fully employed for two weeks in the daily hearing of causes. But its business must increase. There is no longer that restraint upon appeals from the circuit court, which was imposed by the authority of the judge of the court to which the appeal was to be carried; no longer will the apprehension of a secret unavoidable bias in favor of the decision of a member of their own body, shake the confidence of a suitor, in resorting to this court, who thinks that justice has not been done to him in the court below. The progressive increase of the wealth and population of the country will unavoidably swell the business of the court. But there is a more certain and unfailing source of employment which will arise in the appeals from the courts of the national territory. From the courts of original cognizance in this territory, it affords the only appellate jurisdiction. If gentlemen will look to the state of property of a vast amount in this city, they must be satisfied that the supreme court will have enough to do for the money which is paid them.

Let us next consider, sir, the present state of the circuit courts. There are six courts which sit in twenty-two districts; each court visits at least three districts; some, four. The courts are now composed of three judges of equal power and dignity. Standing on equal ground, their opinions will be independent and firm.

Their number is the best for consultation, and they are exempt from the inconvenience of an equal division of opinion. But what I value most, and what was designed to remedy the great defect of the former system, is the identity which the court maintains. Each district has now always the same court. Each district will hereafter have a system of practice and uniformity of decision. The judges of each circuit will now study, and learn, and retain the laws and practice of their respective districts. It never was intended, nor is it practicable, that the same rule of property or of proceeding should prevail from New Hampshire to Georgia. The old courts were enjoined to obey the laws of the respective states. Those laws fluctuate with the will of the state legislatures, and no other uniformity could ever be expected, but in the construction of the constitution and statutes of the United States. This uniformity is still preserved by the control of the supreme court over the courts of the circuits. Under the present establishment, a rational system of jurisprudence will arise. The practice and local laws of the different districts may vary, but in the same district they will be uniform. The practice of each district will suggest improvements to the others, the progressive adoption of which will, in time, assimilate the systems of the several districts.

It is unnecessary, Mr. Chairman, for me to say any thing in relation to the district courts. Their former jurisdiction was not varied by the law of the last session.

It has been my endeavor, sir, to give a correct idea of the defects of the former judicial plan, and of the remedies for those defects introduced by the law now designed to be repealed. I do not pretend to say that the present system is perfect; I contend only that it is better than the old. If, sir, instead of destroying, gentlemen will undertake to improve the present plan, I will not only applaud their motives, but will assist in their labor. We ask only that our system may be tried. Let the sentence of experience be pronounced upon it. Let us hear the national voice after it has been felt. They will then be better able to judge its merits. In practice it has not yet been complained of; and as it is designed for the benefit of the people, how can their friends justify the act of taking it from them before they have manifested their disposition to part with it?

How, sir, am I to account for the extreme anxiety to get rid of this establishment? Does it proceed from that spirit, which, since power has been given to it, has so unrelentingly persecuted men in office who belonged to a certain sect? I hope there will be a little patience; these judges are old and infirm men; they will die; they must die: wait but a short time, their places will be vacant; they will be filled with the disciples of the new school, and

gentlemen will not have to answer for the political murder which is now meditated.

I shall take the liberty now, sir, of paying some attention to the objections which have been expressed against the late establishment. An early exception, which, in the course of the debate, has been abandoned by most gentlemen, and little relied on by any one, is the additional expense. The gentleman from Virginia stated the expense of the present establishment at one hundred and thirty-seven thousand dollars. On this head the material question is, not what is the expense of the whole establishment, but what will be saved by the repealing law on the table. I do not estimate the saving at more than twenty-eight thousand five hundred dollars. You save nothing but the salaries of sixteen judges, of two thousand dollars each. From this amount is to be deducted the salary of a judge of the supreme court, which is three thousand five hundred dollars. Abolishing the present system will not vary the incidental expenses of the circuit court. You revive a circuit court, whose incidental expenses will be equal to those of the court you destroy. The increased salaries of the district judges of Kentucky and Tennessee must remain. It is not proposed to abolish their offices, and the admissions upon the other side allow that the salaries cannot be reduced.

If there were no other objection, the present bill could not pass without amendment, because it reduces the salaries of those judges, which is a plain, undeniable infraction of the constitution. But, sir, it is not a fair way of treating the subject to speak of the aggregate expense. The great inquiry is, whether the judges are necessary, and whether the salaries allowed to them are reasonable. Admitting the utility of the judges, I think no gentleman will contend that the compensation is extravagant.

We are told of the expense attending the federal judiciary. Can gentlemen tell me of a government under which justice is more cheaply administered? Add together the salaries of all your judges, and the amount but little exceeds the emoluments of the chancellor of England. Ascertain the expenses of state justice, and the proportion of each state of the expense of federal justice, and you will find that the former is five times greater than the latter. Do gentlemen expect that a system, expanded over the whole union, is to cost no more than the establishment of a single state? Let it be remembered, sir, that the judiciary is an integral and coördinate part with the highest branches of the government. No government can long exist without an efficient judiciary. It is the judiciary which applies the law and enables the executive to carry it into effect. Leave your laws to the judiciaries of the states to execute, and my word for it, in ten years you have neither

law nor constitution. Is your judiciary so costly that you will not support it? Why, then, lay out so much money upon the other branches of your government? I beg that it may be recollected that, if your judiciary costs you thousands of dollars, your legislature costs you hundreds of thousands, and your executive millions.

An objection has been derived from the paucity of causes in the federal courts, and the objection has been magnified by the allegation that the number had been annually decreasing. The facts admitted, I draw a very different inference from my opponents. In my opinion, they furnish the strongest proof of the defects of the former establishment, and of the necessity of a reform. I have no doubt, nay, I know it to be a fact, that many suitors were diverted from those tribunals by the fluctuations to which they were subject. Allow me, however, to take some notice of the facts. They are founded upon the presidential document, No. 8. Taking the facts as there stated, they allow upwards of fifty suits annually for each court. When it is considered that these causes must each have exceeded the value of five hundred dollars, and that they were generally litigated cases, I do not conceive that there is much ground to affirm, that the courts were without business. But, sir, I must be excused for saying, I pay little respect to this document. It has been shown by others in several points to be erroneous, and from my own knowledge I know it to be incorrect. What right had the president to call upon the clerks to furnish him with the list of the suits which had been brought, or were depending in their respective courts? Had this been directed by congress, or was there any money appropriated to pay the expense? Is there any law which made it the duty of the clerks to obey the order of the executive? Are the clerks responsible for refusing the lists, or for making false or defective returns? Do we know any thing about the authenticity of the certificates made by the clerks? And are we not now aiming a mortal blow at one branch of the government, upon the credit and at the instigation of another and a rival department? Yes, sir, I say at the instigation of the president; for I consider this business wholly as a presidential measure. This document and his message show that it originated with him; I consider it as now prosecuted by him, and I believe that he has the power to arrest its progress, or to accomplish its completion. I repeat that it is his measure. I hold him responsible for it; and I trust in God that the time will come when he will be called upon to answer for it as his act. And I trust the time will arrive, when he will hear us speaking upon the subject more effectually.

It has been stated as the reproach, sir, of the bill of the last session, that it was made by a party at the moment when they were sensible that their power was expiring and passing into other hands.

It is enough for me that the full and legitimate power existed. The remnant was plenary and efficient. And it was our duty to employ it according to our judgments and consciences for the good of the country. We thought the bill a salutary measure, and there was no obligation upon us to leave it as a work for our successors. Nay, sir, I have no hesitation in avowing, that I had no confidence in the persons who were to follow us. And I was the more anxious, while we had the means, to accomplish a work which I believed they would not do, and which I sincerely thought would contribute to the safety of the nation by giving strength and support to the constitution through the storm to which it was likely to be exposed. The fears which I then felt have not been dispelled, but multiplied by what I have since seen. I know nothing which is to be allowed to stand. I observe the institutions of the government falling around me; and where the work of destruction is to end God alone knows. We discharged our consciences in establishing a judicial system, which now exists, and it will be for those who now hold the power of the government to answer for the abolition of it, which they at present meditate. We are told that our law was against the sense of the nation. Let me tell those gentlemen they are deceived when they call themselves the nation. They are only a dominant party, and though the sun of federalism should never rise again, they will shortly find men, better or worse than themselves, thrusting them out of their places. I know it is the cant of those in power, however they have acquired it, to call themselves the nation. We have recently witnessed an example of it abroad. How rapidly did the nation change in France! At one time Brissot called himself the nation; then Robespierre; afterwards Tallien and Barras; and finally Bonaparte. But their dreams were soon dissipated, and they awoke in succession upon the scaffold or in banishment. Let not these gentlemen flatter themselves that Heaven has reserved to them a peculiar destiny. What has happened to others in this country, they must be liable to. Let them not exult too highly in the enjoyment of a little brief and fleeting authority. It was ours yesterday; it is theirs to-day; but to-morrow it may belong to others.

[Mr. Bayard here observed, that as the common hour of adjournment had gone by, he should take his seat in order to allow the committee to rise, if they thought proper. On the following day he resumed his argument.]

I owe to the committee the expression of my thanks for the patience with which they attended to the laborious discussion of yesterday.

It will be my endeavor, in the remarks which I have to offer upon the remaining point of the debate, to consume no time which

the importance of the subject does not justify. I have never departed from the question before the committee, but with great reluctance. Before I heard the gentleman from Virginia, I had not an observation to make unconnected with the bill on the table. It was he who forced me to wander on foreign ground; and be assured, sir, I shall be guilty of no new digressions where I am not covered by the same justification.

I did think that this was an occasion when the house ought to have been liberated from the dominion of party spirit, and allowed to decide upon the unbiased dictates of their understanding. The vain hope which I indulged, that this course would be pursued, was soon dissipated by the inflammatory appeal made by the gentleman from Virginia to the passions of his party. This appeal, which treated with no respect the feelings of one side of the house, will excuse recriminations which have been made, or which shall be retorted. We were disposed to conciliate; but gentlemen are deceived if they think that we will submit to be trampled on.

I shall now, sir, proceed to the consideration of the second point which the subject presents. However this point may be disguised by subtilties, I conceive the true question to be—Has the legislature a right by law to remove a judge? Gentlemen may state their question to be—Has the legislature a right by law to vacate the office of a judge? But, as in fact they remove the judges, they are bound to answer our question.

The question which I state they will not meet. Nay, I have considered it as conceded upon all hands, that the legislature have not the power of removing a judge from his office; but it is contended only that the office may be taken from the judge. Sir, it is a principle in law which ought, and I apprehend does, hold more strongly in politics, that what is prohibited from being done directly, is restrained from being done indirectly. Is there any difference, but in words, between taking the office from a judge and removing a judge from the office? Do you not indirectly accomplish the end which you admit is prohibited? I will not say, that it is the sole intention of the supporters of the bill before us, to remove the circuit judges from their offices; but I will say, that they establish a precedent which will enable worse men than themselves to make use of the legislative power, for that purpose, upon any occasion. If it be constitutional to vacate the office, and in that way to dismiss the judge, can there be a question as to the power to re-create the office and fill it with another man? Repeal to-day the bill of the last session, and the circuit judges are no longer in office. To-morrow rescind this repealing act (and no one will doubt the right to do it), and no effect is produced but the removal of the judges. To suppose that such a case may occur is no vagary of imagination. The thing has been done, shame-

lessly done, in a neighboring state. The judges there held their offices upon the same tenure with the judges of the United States. Three of them were obnoxious to the men in power. The judicial law of the state was repealed, and immediately re-enacted, without a veil being thrown over the transaction. The obnoxious men were removed, their places supplied with new characters, and the other judges were re-appointed. Whatever sophistry may be able to show in theory, in practice there never will be found a difference in the exercise of the powers of removing a judge and of vacating his office.

The question which we are now considering depends upon the provisions contained in the constitution. It is an error of the committee, upon plain subjects to search for reasons very profound. Upon the present subject the strong provisions of the constitution are so obvious, that no eye can overlook them. They have been repeatedly cited, and as long as the question stated is under discussion, they must be reiterated. There are two prominent provisions to which I now particularly allude. First, the judges shall hold their offices during good behavior. Second, their compensation shall not be diminished during their continuance in office. These are provisions so clearly understood upon the first impression, that their meaning is rather obscured than illustrated by argument. What is meant and what has been universally understood by the tenure of "good behavior?" A tenure for life, if the judge commit no misdemeanor. It is so understood and expressed in England, and so it has always been received and admitted in this country. The express provision, then, of the constitution, defines the tenure of a judge's office; a tenure during life. How is that tenure expressly qualified? By the good behavior of the judge. Is the tenure qualified by any other express condition or limitation? No other. As the tenure is express, as but one express limitation is imposed upon it, can it be subject to any other limitation not derived from necessary implication? If any material provision in the constitution can in no other manner be satisfied, than by subjecting the tenure of this office to some new condition, I will then admit that the tenure is subject to the condition.

Gentlemen have ventured to point out a provision which they conceived furnished this necessary implication. They refer to the power given to congress from time to time to establish courts inferior to the supreme court. If this power cannot be exercised without vacating the offices of existing judges, I will concede that those offices may be vacated. But on this head there can be no controversy. The power has been, and at all times may be, exercised, without vacating the office of any judge. It was so exercised at the last session of congress; and I surely do not now dispute the right of gentlemen to establish as many new courts as they

may deem expedient. The power to establish new courts does not, therefore, necessarily imply a power to abolish the offices of existing judges, because the existence of those offices does not prevent an execution of the power.

The clause in the constitution to which I have just alluded, has furnished to gentlemen their famous position, that, though you cannot remove a judge from his office, you may take the office from the judge. Though I should be in order, I will not call this a quibble, but I shall attempt, in the course of the argument, yet more clearly to prove that it is one. I do not contend that you cannot abolish an empty office; but the point on which I rely is, that you can do no act which impairs the independence of a judge. When gentlemen assert that the office may be vacated, notwithstanding the incumbency of the judge, do they consider that they beg the very point which is in controversy? The office cannot be vacated without violating the express provision of the constitution in relation to the tenure.

The judge is to hold the office during good behavior. Does he hold it when it is taken from him? Has the constitution said, that he shall hold the office during good behavior, unless congress shall deem it expedient to abolish the office? If this limitation has been omitted, what authority have we to make it a part of the constitution?

The second plain, unequivocal provision on this subject is, that the compensation of the judge shall not be diminished during the time he continues in office. This provision is directly levelled at the power of the legislature. They alone could reduce the salary. Could this provision have any other design than to place the judge out of the power of congress? And yet how imperfect and how absurd the plan! You cannot reduce a part of the compensation; but you may extinguish the whole. What is the sum of this notable reasoning? You cannot remove a judge from the office; but you may take the office from the judge. You cannot take the compensation from the judge; but you may separate the judge from the compensation.

If your constitution cannot resist reasoning like this, then indeed is it waste paper.

I will here turn aside in order to consider a variety of arguments drawn from different sources, on which gentlemen on the other side have placed a reliance. I know of no order in which they can be classed, and I shall, therefore, take them up as I meet with them on my notes. It was urged by the honorable member from Virginia, to whom I have so frequently referred, that what was created by law might by law be annihilated. In the application of his principle he disclosed views which, I believe, have not been contemplated by gentlemen of his party. He was industrious to

show, that not only the inferior courts but the supreme court derives its existence from law. The president and legislature exist under the constitution. They came into being without the aid of a law. But though the constitution said there should be a supreme court, no judges could exist till the court was organized by a law. This argument, I presume, was pushed to this extent, in order to give notice to the judges of the supreme court of their fate, and to bid them prepare for their end. I shall not attempt to discriminate between the tenure of the offices of the judges of the supreme and inferior courts. Congress has power to organize both descriptions of courts, and to limit the number of judges; but they have no power to limit or define the tenure of office. Congress creates the office; the president appoints the officer; but it is neither under congress nor the president, but under the constitution, that the judge claims to hold the office during good behavior. The principle asserted does not in this case apply; the tenure of office is not created by law, and if the truth of the principle were admitted, it would not follow, that the tenure of the office might be vacated by law. But the principle is not sound. I will show a variety of cases which will prove its fallacy. Among the obnoxious measures of the late administration, was the loan of five millions, which was funded at eight *per centum*. The loan was created by a law and funded by a law. Is the gentleman prepared to say, that this debt, which was funded by a law of the former legislature, may be extinguished by a law of the present? Can you, by calling the interest of this debt exorbitant and usurious, justify the reduction of it? Gentlemen admit that the salary of a judge, though established by a law, cannot be diminished by a law. The same thing must be allowed with respect to the salary of the president. Sir, the true principle is, that one legislature may repeal the act of a former, in cases not prohibited by the constitution. The correct question therefore is, whether the legislature are not forbidden, by the constitution, to abridge the tenure of a judicial office.

In order to avoid cases of a nature similar to those which I have put, the gentleman from Kentucky (Mr. Davis), and after him the gentleman from Virginia, endeavored to draw a distinction between laws executed and laws executory.

The distinction was illustrated by reference to the case of a state admitted by a law into the union. Here it is said the law is executed, and *functus officio*, and if you repeal it, still the state remains a member of the union. But it was asked by the gentleman from Kentucky, Supposing a law made to admit a state into the union at a future time, before the time of admission arrived, could not the law be repealed? I will answer the question to the satisfaction of the gentleman by stating a case which exists. By

an ordinance of congress, in the year 1787, congress ordained, that when the population within the limits of a state within the North Western Territory should amount to sixty thousand souls, the district should be admitted as a member of the union. Will the gentleman venture to doubt as to this case? Would he dare to tell the people of this country, that congress had the power to disfranchise them?

The law, in the case I refer to, is executory, though the event upon which it is to take effect is limited by population, and not by time.

But, sir, if there were any thing in the principle, it has no influence upon the case to which it has been applied. A law has created the office of a judge; the judge has been appointed, and the office filled. The law is therefore executed, and upon the very distinction of the gentleman, cannot be repealed. The law, fixing the compensation, is executory, and so is that which establishes the salary of the president; but though executory, they cannot be repealed. The distinction, therefore, is idle, and leaves the question upon the ground of the repeal being permitted or prohibited by the constitution. I shall now advert, sir, to an argument urged with great force, and not a little triumph, by the honorable member from Virginia. This argument is derived from the word 'hold,' in the expression, the judge shall hold his office during good behavior. It is considered as correlative to tenure. The gentleman remarks, that the constitution provides, that the president shall nominate the judge to his office, and when approved by the senate, shall commission him. It is hence inferred, that as the president nominates and commissions the judge, the judge holds the office of the president; and that when the constitution provides, that the tenure of the office shall be during good behavior, the provision applies to the president, and restrains the power which otherwise would result in consequence of the offices being holden of him, to remove the judges at will. This is an argument, sir, which I should have thought that honorable member would have been the last person upon this floor to have adopted. It not only imputes to the president royal attributes, but prerogatives derived from the rude doctrines of the feudal law. Does the gentleman mean to contend, that the president of these states, like the monarch of England, is the fountain of honor, of justice, and of office? Does he mean to contend, that the courts are the president's courts, and the judges the president's judges? Does he mean to say, sir, that the chief magistrate is always supposed to be present in these courts, and that the judges are but the images of his justice? To serve the paltry purposes of this argument, would the gentleman be willing to infuse into our constitution the vital spirit of the feudal doctrines? He does not believe, he can-

not believe, that when the word 'hold' was employed, any reference was had to its feudal import. The language of the constitution furnishes no support to this feudal argument. These officers are not called the judges of the president, but the judges of the United States. They are a branch of the government equally important, and designed to be coordinate with the president. If, sir, because the president nominates to office, and commissions, the office is held of him: for a stronger reason, where by patent he grants lands of the United States, the lands are held of him. And upon the grantee's dying without heirs, the lands would escheat not to the United States, but to the president. In England, the tenure of lands and offices is derived from the same principle. All lands are held mediately or immediately of the crown, because they are supposed to have been originally acquired from the personal grant of the monarch. It is the same of office, as the king is supposed to be the source of all offices. Having the power to grant, he has a right to define the terms of the grant. These terms constitute the tenure. When the terms fail, the tenure ceases, and the object of the grant reverts to the grantor. This gentleman has charged others with monarchical tendencies; but never have I before witnessed an attempt so bold and strong to incorporate in our constitution a rank monarchical principle. If, sir, the principle of our constitution on this subject be republican, and not monarchical, and the judges hold their offices of the United States, and not of the president, then the application of his argument has all the force against the gentleman, which he designed it should have against his adversaries. For if the office be held of the United States, and the tenure of good behavior was designed to restrain the power of those of whom the office was holden, it will follow, that it was the intention to restrain the power of the United States.

We have been told by gentlemen, that the principles we advocated tended to establish a sinecure system in the country. Sir, I am as little disposed to be accessory to the establishment of such a system, as any gentleman on this floor. But let me ask how this system is to be produced. We established judicial offices, to which numerous and important duties were assigned. A compensation has been allowed to the judges, which no one will say is immoderate, or disproportioned to the service to be rendered. These gentlemen first abolish the duties of the offices, then call the judges pensioners, and afterwards accuse us of establishing sinecures. There are no pensioners at present; if there should be any, they will be the creatures of this law. I have ever considered it as a sound and moral maxim, that no one should avail himself of his own wrong. It is a maxim, which ought to be equally obligatory upon the public as upon the private man. In the present case, the judge

offers you his service. You cannot say it is not worth the money you pay for it. You refuse to accept the service; and after engaging to pay him while he continued to perform the service, you deny him his compensation, because he neglects to render services which you have prevented him from performing. Was injustice ever more flagrant? Surely, sir, the judges are innocent. If we did wrong, why should they be punished and disgraced? They did not pass the obnoxious law; they did not create the offices; they had no participation in the guilty business; but they were invited, upon the faith of government, to renounce their private professions, to relinquish the emolument of other employments, and to enter into the service of the United States, who engaged to retain them during their lives, if they were guilty of no misconduct. They have behaved themselves well, unexceptionably well, when they find the government rescinding the contract made with them, refusing the stipulated price of their labor, dismissing them from service, and, in order to cover the scandalous breach of faith, stigmatizing them with names which may render them odious to their countrymen. Is there a gentleman on the floor of this house, who would not revolt at such conduct in private life? Is there one who would feel himself justified, after employing a person for a certain time, and agreeing to pay a certain compensation, to dismiss the party from the service upon any caprice which altered his views, deny him the stipulated compensation, and abuse him with opprobrious names, for expecting the benefit of the engagement?

A bold attempt was made, by one of the gentlemen from Virginia (Mr. Giles), to force to his aid the statute of 13th Wm. III. I call it a bold attempt, because the gentleman was obliged to rely upon his own assertion to support the ground of his argument. He stated, that the clause in the constitution was borrowed from a similar provision in the statute. I know nothing about the fact, but I will allow the gentleman its full benefit. In England, at an earlier period, the judges held their commissions during the good pleasure of the monarch. The parliament desired, and the king consented, that the royal prerogative should be restrained; that the offices of the judges should not depend on the will of the crown alone, but upon the joint pleasure of the crown and of parliament. The king consented to part with a portion of his prerogative by relinquishing his power to remove the judges without the advice of his parliament. But, by an express clause in the statute, he retained the authority to remove them by the advice of his parliament. Suppose the clause had been omitted, which reserved the right to remove upon the address of the two houses of parliament, and the statute had been worded in the unqualified language of our constitution, that the judges should hold their offices during

good behavior ; would not the prerogative of removal have been abolished altogether? I will not say that the honorable member has been peculiarly unfortunate in the employment of this argument, because, sir, it appears to me, that most to which he has had recourse, when justly considered, have operated against the cause they were designed to support.

The gentleman tells us, that the constitutional provision on this subject was taken from the statute of William. Will he answer me this plain question—Why do we find omitted in the constitution that part of the statutory provision, which allowed the judges to be removed upon the address of the two branches of the legislature? Does he suppose that the clause was not observed? Does he imagine that the provision was dropped through inadvertency? Will he impute so gross a neglect to an instrument, every sentence, and word, and comma of which, he has told us, was so maturely considered, and so warily settled? No, sir, it is impossible ; and give me leave to say, that if this part of the constitution were taken from the statute (and the gentleman from Virginia must have better information on the subject than I have), that a stronger argument could not be adduced, to show that it was the intention of those who framed the constitution, by omitting that clause in the statute which made the judges tenants of their office at the will of parliament, to improve in this country the English plan of judicature, by rendering the judges independent of the legislature. And I shall have occasion, in the course of my observations, to show, that the strongest reasons derived from the nature of our government, and which do not apply to the English form, require the improvements to be made.

Upon this point, sir, we may borrow a few additional rays of light from the constitutions of Pennsylvania, of Delaware, and of some other states. In those states it has been thought, that there might be misconduct on the part of a judge, not amounting to an impeachable offence, for which he should be liable to be removed. Their constitutions, therefore, have varied from that of the United States, and rendered their judges liable to be removed upon the address of two thirds of each branch of the legislature. Does it not strike every mind, that it was the intention of those constitutions to have judges independent of a majority of each branch of the legislature? and I apprehend, also, that it may be fairly inferred, that it was understood in those states, when their constitutions were formed, that even two thirds of each branch of the legislature would not have the power to remove a judge, whose tenure of office was during good behavior, unless the power was expressly given to them by the constitution. I cannot well conceive of any thing more absurd, in an instrument designed to last for centuries, and to bind the furious passions of party, than to fortify one

pass to judicial independence, and to leave another totally unguarded against the violence of legislative power.

It has been urged, by the gentleman from Virginia, that our admission, that congress has a power to modify the office of a judge, leads to the conclusion, that they have the power to abolish the office; because, by paring away their powers, they may at length reduce them to a shadow, and leave them as humble and as contemptible as a court of *piepoudre*. The office of a judge consists of judicial powers which he is appointed to execute. Every law which is passed increases or diminishes those powers, and so far modifies the office; nay, it is competent for the legislature to prescribe additional duties or to dispense with unnecessary services, which are connected with the office of judge. But this power has its bounds. You may modify the office to any extent which does not affect the independence of the judge. The judge is to hold the office during good behavior; now modify as you please, so that you do not infringe this constitutional provision.

Do you ask me to draw a line, and say, Thus far you shall go, and no further? I admit no line can be drawn. It is an affair of sound and *bona fide* discretion. Because a discretion on the subject is given to the legislature, to argue upon the abuse of that discretion, is adopting a principle subversive of all legitimate power.

The constitution is predicated upon the existence of a certain degree of integrity in man. It has trusted powers liable to enormous abuse, if all political honesty be discarded. The legislature is not limited in the amount of the taxes which they have a right to impose, nor as to the objects to which they are to be applied. Does this power give us the property of the country, because by taxes we might draw it into the public coffers, and then cut up the treasury and divide the spoils? Is there any power, in respect to which a precise line can be drawn, between the discreet exercise and the abuse of it?

I can only say, therefore, on this subject, that every man is acquitted to his own conscience, who *bona fide* does not intend, and who sincerely does not believe, that by the law which he is about to pass, he interferes with the judges holding their offices during good behavior.

I am now brought, Mr. Chairman, to take notice of some remarks which fell from the gentleman from Virginia, which do not belong to the subject before us, but are of sufficient importance to deserve particular attention. He called our attention, in a very impressive manner, to the state of parties in this house, at the time when the act of the last session passed. He describes us in a state of blind paroxysm, incapable of discerning the nature or tendency of the measures we were pursuing; that a majority

of the house were struggling to counteract the expression of the public will in relation to the person who was to be the chief magistrate of the country.

I did suppose, sir, that this business was at an end: and I did imagine, that as gentlemen had accomplished their object, they would have been satisfied. But as the subject is again renewed, we must be allowed to justify our conduct. I know not what the gentleman calls an expression of the public will. There were two candidates for the office of president, who were presented to the house of representatives with equal suffrages. The constitution gave us the right, and made it our duty, to elect that one of the two whom we thought preferable. A public man is to notice the public will as constitutionally expressed. The gentleman from Virginia, and many others, may have had their preference; but that preference of the public will did not appear by its constitutional expression. Sir, I am not certain that either of those candidates had a majority of the country in his favor. Excluding the state of South Carolina, the country was equally divided. We know that parties in that state were nearly equally balanced, and the claims of both the candidates were supported by no other scrutiny into the public will, than our official return of votes. Those votes are very imperfect evidence of the true will of a majority of the nation. They resulted from political intrigue and artificial arrangements.

When we look at the votes, we must suppose that every man in Virginia voted the same way. These votes are received as a correct expression of the public will. And yet we know, that if the votes of that state were apportioned according to the several voices of the people, that at least seven out of twenty-one would have been opposed to the successful candidates. It was the suppression of the will of one third of Virginia, which enables gentlemen now to say, that the present chief magistrate is the man of the people. I consider that as the public will which is expressed by constitutional organs. To that will I bow and submit. The public will, thus manifested, gave to the house of representatives the choice of the two men for president. Neither of them was the man whom I wished to make president: but my election was confined by the constitution to one of the two, and I gave my vote to the one whom I thought was the greater and better man. That vote I repeated, and in that vote I should have persisted, had I not been driven from it by imperious necessity. The prospect ceased of the vote being effectual, and the alternative only remained of taking one man for president, or having no president at all. I chose, as I then thought, the lesser evil.

From the scene in this house, the gentleman carried us to one in the senate. I should blush, sir, for the honor of the country,

could I suppose that the law, designed to be repealed, owed its support in that body to the motives which have been indicated. The charge designed to be conveyed, not only deeply implicates the integrity of individuals of the senate, but of the person who was then the chief magistrate. The gentleman, going beyond all precedent, has mentioned the names of members of that body, to whom commissions issued for offices not created by the bill before them, but which that bill, by the promotions it afforded, was likely to render vacant. He has considered the scandal of the transaction as aggravated by the issuing of commissions for offices not actually vacant, upon the bare presumption that they would become vacant, by the incumbents accepting commissions for higher offices which were isused in their favor. The gentleman has particularly dwelt upon the indecent appearance of the business, from two commissions being held by different persons at the same time for the same office.

I beg that it will be understood, that I mean to give no opinion as to the regularity of granting a commission for a judicial office, upon the probability of a vacancy before it is actually vacant; but I shall be allowed to say, that so much doubt attends the point, that an innocent mistake might be made on the subject. I believe, sir, it has been the practice to consider the acceptance of an office as relating to the date of the commission. The officer is allowed his salary from that date, upon the principle that the commission is a grant of the office, and the title commences with the date of the grant. This principle is certainly liable to abuse; but where there was a suspicion of abuse, I presume the government would depart from it. Admitting the office to pass by the commission, and the acceptance to relate to its date, it then does not appear very incorrect, in the case of a commission for the office of a circuit judge, granted to a district judge, as the acceptance of the commission for the former office relates to the date of the commission, to consider the latter office as vacant from the same time. The offices are incompatible. You cannot suppose the same person in both offices at the same time. From the moment, therefore, that you consider the office of circuit judge as filled by a person who holds the commission of district judge, you must consider the office of district judge as vacated. The grant is contingent. If the contingency happen, the office vests from the date of the commission; if the contingency does not happen, the grant is void. If this reasoning be sound, it was not irregular, in the late administration, after granting a commission to a district judge, for the place of a circuit judge, to make a grant of the office of the district judge, upon the contingency of his accepting the office of the circuit judge.

I now return, sir, to that point of the charge which was person-

al in its nature, and of infinitely the most serious import. It is a charge, as to which we can only ask, is it true? If it be true, it cannot be excused; it cannot be palliated; it is vile, profligate corruption, which every honest mind will execrate. But, sir, we are not to condemn till we have evidence of the fact. If the offence be serious, the proof ought to be plenary. I will consider the evidence of the fact upon which the honorable member has relied, and I will show him, by the application of it to a stronger case, that it is of a nature to prove nothing.

Let me first state the principal case. Two gentlemen of the senate, Mr. Read, of South Carolina, and Mr. Green, of Rhode Island, who voted in favor of the law of last session, each received an appointment to the place of district judge, which was designed to be vacated by the promotion of the district judge to the office of circuit judge. The gentleman conveyed to us a distinct impression of his opinion, that there was an understanding between these gentlemen and the president, and that the offices were the promised price of their votes.

I presume, sir, the gentleman will have more charity in the case which I am about to mention, and he will for once admit, that public men ought not to be condemned, upon loose conclusions drawn from equivocal presumptions.

The case, sir, to which I refer, carries me once more to the scene of the presidential election. I should not have introduced it into this debate, had it not been called up by the honorable member from Virginia. In that scene I had my part; it was a part not barren of incident, and which has left an impression which cannot easily depart from my recollection. I know who were rendered important characters, either from the possession of personal means, or from the accident of political situation. And now, sir, let me ask the honorable member, what his reflections and belief will be, when he observes, that every man, on whose vote the event of the election hung, has since been distinguished by presidential favor. I fear, sir, I shall violate the decorum of parliamentary proceeding, in the mentioning of names; but I hope the example which has been set me will be admitted as an excuse. Mr. Charles Pinckney, of South Carolina, was not a member of the house; but he was one of the most active, efficient and successful promoters of the election of the present chief magistrate. It was well ascertained, that the votes of South Carolina were to turn the equal balance of the scales. The zeal and industry of Mr. Pinckney had no bounds. The doubtful politics of South Carolina were decided, and her votes cast into the scale of Mr. Jefferson. Mr. Pinckney has since been appointed minister plenipotentiary to the court of Madrid; an appointment as high and honorable as any within the gift of the executive. I will not deny, that this prefer-

ment is the reward of talents and services, although, sir, I have never yet heard of the talents or services of Mr. Charles Pinckney. In the house of representatives, I know what was the value of the vote of Mr. Claiborne, of Tennessee. The vote of a state was in his hands. Mr. Claiborne has since been raised to the high dignity of governor of the Mississippi Territory. I know how great, and how greatly felt, was the importance of the vote of Mr. Linn, of New Jersey. The delegation of the state consists of five members. Two of the delegation were decidedly for Mr. Jefferson; two were decidedly for Mr. Burr. Mr. Linn was considered as inclining to one side, but still doubtful. Both parties looked up to him for the vote of New Jersey. He gave it to Mr. Jefferson; and Mr. Linn has since had the profitable office of supervisor of his district conferred upon him. Mr. Lyon, of Vermont, was, in this instance, an important man. He neutralized the vote of Vermont. His absence alone would have given the vote of a state to Mr. Burr. It was too much to give an office to Mr. Lyon: his character was low. But Mr. Lyon's son has been handsomely provided for in one of the executive offices. I shall add to the catalogue but the name of one more gentleman, Mr. Edward Livingston, of New York. I knew well, full well I knew, the consequence of this gentleman. His means were not limited to his own vote; nay, I always considered more than the vote of New York within his power. Mr. Livingston has been made the attorney for the district of NewYork: the road of preferment has been opened to him, and his brother has been raised to the distinguished place of minister plenipotentiary to the French republic.

This catalogue might be swelled to a much greater magnitude; but I fear, Mr. Chairman, were I to proceed further, it might be supposed, that I myself harbored the uncharitable suspicions of the integrity of the chief magistrate, and of the purity of the gentlemen whom he thought proper to promote, which it is my design alone to banish from the mind of the honorable member from Virginia. It would be doing me great injustice to suppose, that I have the smallest desire, or have had the remotest intention, to tarnish the fame of the present chief magistrate, or of any of the honorable gentlemen who have been the objects of his favor, by the statement which I have made: my motive is of an opposite nature. The late president appointed gentlemen to office to whom he owed no personal obligations, but who only supported what has been considered as a favorite measure. This has been assumed as a sufficient ground, not only of suspicion, but of condemnation. The present executive, leaving scarcely an exception, has appointed to office, or has, by accident, indirectly gratified every man who had any distinguished means in the competition for the presidential

office, of deciding the election in his favor. Yet, sir, all this furnishes too feeble a presumption to warrant me to express a suspicion of the integrity of a great officer, or of the probity of honorable men, in the discharge of the high functions which they had derived from the confidence of their country. I am sure, sir, in this case, the honorable member from Virginia is as exempt from any suspicion as myself. And I shall have accomplished my whole object, if I induce that honorable member, and other members of the committee, who entertain his suspicions as to the conduct of the late executive, to review the ground of those suspicions, and to consider, that in a case furnishing much stronger ground for the presumption of criminality, they have an unshaken belief, an unbroken confidence, in the purity and fairness of the executive conduct.

I return again to the subject before the committee, from the unpleasant digression to which I was forced to submit, in order to repel insinuations which were calculated to have the worst effect, as well abroad as within the walls of this house. I shall now cursorily advert to some arguments of minor importance, which are supposed to have some weight by gentlemen on the other side. It is said, that if the courts are sanctuaries, and the judges cannot be removed by law, it would be in the power of a party to create a host of them, to live as pensioners on the country. This argument is predicated upon an extreme abuse of power, which can never fairly be urged to restrain the legitimate exercise of it: as well might it be urged, that a subsequent congress had a right to reduce the salary of a judge, or of the president, fixed by a former congress; because, if the right did not exist, one congress might confer a salary of five hundred thousand, or a million of dollars, to the impoverishment of the country. It will be time enough to decide upon those extreme cases, when they occur. We are told, that the doctrine we contend for enables one legislature to derogate from the power of another; that it attributes to a former a power which it denies to a subsequent legislature.

This is not correct. We admit, that this congress possesses all the power possessed by the last congress. That congress had a power to establish courts; so has the present. That congress had not, nor did it claim, the power to abolish the office of a judge while it was filled. Though they thought five judges, under the new system, sufficient to constitute the supreme court, they did not attempt to touch the office of either of the six judges. Though they considered it more convenient to have circuit judges in Kentucky and Tennessee than district judges, they did not lay their hands upon the offices of the six judges. We, therefore, deny no power to this congress which was not denied to the last.

An honorable member from Virginia seriously expressed his alarm, lest the principles we contended for should introduce into the country a privileged order of men. The idea of the gentleman supposes that every office not at will, establishes a privileged order. The judges have their offices for one term; the president, the senators and members of this house, for different terms. While these terms endure, there is a privilege to hold the places, and no power exists to remove. If this be what the gentleman means by a privileged order, and he agrees that the president, the senators and the members of this house, belong to privileged orders, I shall give myself no trouble to deny, that the judges fall under the same description; and I believe that the gentleman will find it difficult to show, that in any other manner they are privileged. I did not suppose that this argument was so much addressed to the understandings of gentlemen upon this floor, as to the prejudices and passions of people out of doors.

It was urged with some impression, by the honorable member from Virginia, to whom I last referred, that the position, that the office of a judge might be taken from him by law, was not a new doctrine; that it was established by the very act now designed to be repealed, which was described, in glowing language, to have inflicted a gaping wound on the constitution, and to have stained with its blood the pages of our statute-book. It shall be my task, sir, to close this gaping wound, and to wash from the pages of our statute-book the blood with which they were stained. It will be an easy task to show to you the constitution without a wound, and the statute-book without a stain.

It is, sir, the twenty-seventh section of the bill of the last session, which the honorable member considers as having inflicted the ghastly wound on the constitution, of which he has so feelingly spoken. That section abolishes the ancient circuit courts. But, sir, have we contended, or has the gentleman shown, that the constitution prohibits the abolition of a court, when you do not materially affect, or in any degree impair the independence of a judge? A court is nothing more than a place where a judge is directed to discharge certain duties. There is no doubt you may erect a new court, and direct it to be holden by the judges of the supreme or of the district courts. And if it should afterwards be your pleasure to abolish that court, it cannot be said, that you destroy the offices of the judges by whom it was appointed that the courts should be holden.

Thus it was directed by the original judicial law, that a circuit court should be holden at Yorktown, in the district of Pennsylvania. This court was afterwards abolished; but it was never imagined that the office of any judge was affected. Let me suppose that a state is divided into two districts, and district courts

established in each, but that one judge is appointed by law to discharge the judicial duties in both courts. The arrangement is afterwards found inconvenient, and one of the courts is abolished. In this case, will it be said, that the office of the judge is destroyed, or his independence affected? The error into which gentlemen have fallen on this subject, has arisen from their taking for granted what they have not attempted to prove, and what cannot be supported—that the office of a judge, and any court in which he officiates, are the same thing. It is most clear, that a judge may be authorized and directed to perform duties in several courts, and that the discharging him from the performance of duty in one of those courts, cannot be deemed an infringement of his office. The case of the late circuit courts as plainly illustrates the argument, and as conclusively demonstrates its correctness, as any case which can be put. There were not nominally any judges of the circuit court. The court was directed to be holden by the judges of the supreme and of the district courts. The judges of these two courts were associated and directed to perform certain duties; when associated, and in the performance of those duties, they were denominated the circuit court. This court is abolished; the only consequence is, that the judges of the supreme and district courts are discharged from the performance of the joint duties which were previously imposed upon them. But is the office of one judge of the supreme or of the district courts infringed? Can any judge say, in consequence of the abolition of the circuit courts, I no longer hold my office during good behavior? On this point, it was further alleged by the same honorable member, that the law of the last session inflicted another wound on the constitution, by abolishing the district courts of Kentucky and Tennessee. The gentleman was here deceived by the same fallacy which misled him on the subject of the circuit courts. If he will give himself the trouble of carefully reviewing the provisions of the law, he will discern the sedulous attention of the legislature to avoid the infringement of the offices of those judges. I believe the gentleman went so far as to charge us with appointing by law those judges to new offices.

The law referred to establishes a circuit comprehending Kentucky, Tennessee, and the district of Ohio. The duties of the court of this circuit are directed to be performed by a circuit judge and the two district judges of Kentucky and Tennessee. Surely it is competent for the legislature to create a court, and to direct that it shall be holden by any of the existing judges. If the legislature had done, with respect to all the district judges, what they have done with respect to those of Kentucky and Tennessee, I am quite certain that the present objection would have appeared entirely groundless. Had they directed that all the circuit courts should

be held by the respective judges within the circuits, gentlemen would have clearly seen, that this was only an imposition of a new duty, and not an appointment to a new office.

It will be recollected that, under the old establishment, the district judges of Kentucky and Tennessee were invested generally with the powers of the circuit judges. The ancient powers of those judges are scarcely varied by the late law, and the amount of the change is, that they are directed to exercise those powers in a court formerly called a district, but now a circuit court, and at other places than those to which they were formerly confined. But the district judge nominally remains; his office both nominally and substantially exists, and he holds it now, as he did before, during good behavior. I will refer gentlemen to different provisions in the late law, which will show, beyond denial, that the legislature carefully and pointedly avoided the act of abolishing the offices of those judges.

The seventh section of the law provides, that the court of the sixth circuit shall be composed of a circuit judge, "and the judges of the district courts of Kentucky and Tennessee." It is afterwards declared, in the same section, "that there shall be appointed, in the sixth circuit, a judge of the United States, to be called a circuit judge, who, together with the district judges of Tennessee and Kentucky, shall hold the circuit courts hereby directed to be holden within the same circuit." And finally, in the same section, it is provided, "that whenever the office of district judge in the districts of Kentucky and Tennessee respectively shall become vacant, such vacancies shall respectively be supplied by the appointment of two additional circuit judges in the said circuit, who, together with the circuit judge first aforesaid, shall compose the circuit court of the said circuit." When the express language of the law affirms the existence of the office and of the officer, by providing for the contingency of the officer ceasing to fill the office, with what face can gentlemen contend that the office is abolished? They who are not satisfied upon this point, I despair of convincing upon any other.

Upon the main question, whether the judges hold their offices at the will of the legislature, an argument of great weight, and according to my humble judgment, of irresistible force, still remains.

The legislative power of the government is not absolute, but limited. If it be doubtful whether the legislature can do what the constitution does not explicitly authorize, yet there can be no question, that they cannot do what the constitution expressly prohibits. To maintain, therefore, the constitution, the judges are a check upon the legislature. The doctrine, I know, is denied, and it is, therefore, incumbent upon me to show that it is sound.

It was once thought by gentlemen, who now deny the principle, that the safety of the citizen and of the states rested upon the power of the judges to declare an unconstitutional law void. How vain is a paper restriction if it confers neither power nor right! Of what importance is it to say, congress are prohibited from doing certain acts, if no legitimate authority exists in the country to decide whether an act done is a prohibited act? Do gentlemen perceive the consequences which would follow from establishing the principle, that congress have the exclusive right to decide upon their own powers? This principle admitted, does any constitution remain? Does not the power of the legislature become absolute and unbounded? Can you talk to them of transgressing their powers, when no one has a right to judge of those powers but themselves? They do what is not authorized: they do what is forbidden; nay, at every step, they trample the constitution under foot; yet their acts are lawful and binding, and it is treason to resist them. How ill, sir, do the doctrines and professions of these gentlemen agree! They tell us they are friendly to the existence of the states: that they are the friends of federature, but the enemies of a consolidated general government; and yet, sir, to accomplish a paltry object, they are willing to settle a principle which, beyond all doubt, would eventually plant a consolidated government, with unlimited power, upon the ruins of the state governments.

Nothing can be more absurd than to contend, that there is a practical restraint upon a political body, who are answerable to none but themselves for the violation of the restraint, and who can derive, from the very act of violation, undeniable justification of their conduct.

If, Mr. Chairman, you mean to have a constitution, you must discover a power to which the acknowledged right is attached of pronouncing the invalidity of the acts of the legislature which contravened the instrument.

Does the power reside in the states? Has the legislature of a state a right to declare an act of congress void? This would be erring upon the opposite extreme. It would be placing the general government at the feet of the state governments. It would be allowing one member of the union to control all the rest. It would inevitably lead to civil dissension and a dissolution of the general government. Will it be pretended, that the state courts have the exclusive right of deciding upon the validity of our laws?

I admit they have the right to declare an act of congress void. But this right they enjoy in practice, and it ever essentially must exist, subject to the revision and control of the courts of the United States. If the state courts definitively possessed the right of declaring the invalidity of the laws of this government, it would

bring us in subjection to the states. The judges of those courts, being bound by the laws of the state, if a state declared an act of congress unconstitutional, the law of the state would oblige its courts to determine the law invalid. This principle would also destroy the uniformity of obligation upon all the states, which should attend every law of this government. If a law were declared void in one state, it would exempt the citizens of that state from its operation, whilst obedience was yielded to it in the other states. I go further, and say, if the states or state courts had a final power of annulling the acts of this government, its miserable and precarious existence would not be worth the trouble of a moment to preserve.

It would endure but a short time as a subject of derision, and, wasting into an empty shadow, would quickly vanish from our sight. Let me now ask if the power to decide upon the validity of our laws resides with the people. Gentlemen cannot deny this right to the people. I admit they possess it. But if, at the same time, it does not belong to the courts of the United States, where does it lead the people? It leads them to the gallows. Let us suppose that congress, forgetful of the limits of their authority, pass an unconstitutional law. They lay a direct tax upon one state, and impose none upon the others. The people of the state taxed contest the validity of the law. They forcibly resist its execution. They are brought by the executive authority before the courts upon charges of treason. The law is unconstitutional; the people have done right; but the court are bound by the law, and obliged to pronounce upon them the sentence which it inflicts. Deny to the courts of the United States the power of judging upon the constitutionality of our laws, and it is vain to talk of its existing elsewhere. The infractors of the laws are brought before these courts, and if the courts are implicitly bound, the invalidity of the laws can be no defence. There is, however, Mr. Chairman, still a stronger ground of argument upon this subject. I shall select one or two cases to illustrate it. Congress are prohibited from passing a bill of attainder; it is also declared in the constitution, that "no attainder of treason shall work corruption of blood or forfeiture, except during the life of the party attainted." Let us suppose that congress pass a bill of attainder, or they enact, that any one attainted of treason shall forfeit to the use of the United States, all the estate which he held in any lands or tenements.

The party attainted is seized and brought before a federal court, and an award of execution passed against him. He opens the constitution, and points to this line, "No bill of attainder or *ex post facto* law shall be passed." The attorney for the United States reads the bill of attainder.

The court are bound to decide; but they have only the alternative of pronouncing the law or the constitution invalid. It is left to them only to say, that the law vacates the constitution, or the constitution avoids the law. So, in the other case stated, the heir, after the death of his ancestor, brings his ejectment in one of the courts of the United States to recover his inheritance. The law by which it is confiscated is shown. The constitution gave no power to pass such a law. On the contrary, it expressly denied it to the government. The title of the heir is rested on the constitution, the title of the government on the law. The effect of one destroys the effect of the other; the court must determine which is effectual.

There are many other cases, Mr. Chairman, of a similar nature to which I might allude. There is the case of the privilege of *habeas corpus*, which cannot be suspended but in times of rebellion or of invasion. Suppose a law prohibiting the issuing of the writ at a moment of profound peace. If, in such case, the writ were demanded of a court, could they say, It is true the legislature were restrained from passing the law suspending the privilege of this writ, at such a time as that which now exists; but their mighty power has broken the bonds of the constitution, and fettered the authority of the court? I am not, sir, disposed to vaunt; but, standing on this ground, I throw the gauntlet to any champion upon the other side. I call upon them to maintain, that in a collision between a law and the constitution, the judges are bound to support the law and annul the constitution. Can the gentlemen relieve themselves from this dilemma? Will they say, though a judge has no power to pronounce a law void, he has a power to declare the constitution invalid?

The doctrine for which I am contending is not only clearly inferable from the plain language of the constitution, but by law has been expressly declared and established in practice since the existence of the government.

The second section of the third article of the constitution expressly extends the judicial power to all cases arising under the constitution, the laws, &c. The provision in the second clause of the sixth article leaves nothing to doubt—"this constitution and the laws of the United States, which shall be made in pursuance thereof, &c., shall be the supreme law of the land." The constitution is absolutely the supreme law. Not so the acts of the legislature. Such only are the law of the land as are made in pursuance of the constitution.

I beg the indulgence of the committee one moment, while I read the following provision from the twenty-fifth section of the judicial act of the year 1789: "A final judgment or decree in any

suit in the highest court of law or equity of a state, in which a decision in the suit could be had, where is drawn in question the validity of a treaty or statute of, or an authority exercised under, the United States, and the decision is against their validity, &c., may be re-examined and reversed or affirmed in the supreme court of the United States upon a writ of error." Thus, as early as the year 1789, among the first acts of the government, the legislature explicitly recognized the right of a state court to declare a treaty, a statute, and an authority exercised under the United States, void, subject to the revision of the supreme court of the United States; and it has expressly given the final power to the supreme court to affirm a judgment which is against the validity, either of a treaty, statute, or an authority of the government.

I humbly trust, Mr. Chairman, that I have given abundant proofs, from the nature of our government, from the language of the constitution, and from legislative acknowledgment, that the judges of our courts have the power to judge and determine upon the constitutionality of our laws.

Let me now suppose, that, in our frame of government, the judges are a check upon the legislature; that the constitution is deposited in their keeping. Will you say afterwards, that their existence depends upon the legislature? that the body whom they are to check has the power to destroy them? Will you say that the constitution may be taken out of their hands, by a power the most to be distrusted, because the only power which could violate it with impunity? Can any thing be more absurd than to admit that the judges are a check upon the legislature, and yet to contend that they exist at the will of the legislature? A check must necessarily imply a power commensurate to its end. The political body, designed to check another, must be independent of it, otherwise there can be no check. What check can there be when the power designed to be checked can annihilate the body which is to restrain it?

I go further, Mr. Chairman, and take a stronger ground. I say, in the nature of things, the dependence of the judges upon the legislature, and their right to declare the acts of the legislature void, are repugnant, and cannot exist together. The doctrine, sir, supposes two rights—first, the right of the legislature to destroy the office of the judge, and the right of the judge to vacate the act of the legislature. You have a right to abolish, by a law, the offices of the judges of the circuit courts: they have a right to declare the law void. It unavoidably follows in the exercise of these rights, either that you destroy their rights or that they destroy yours. This doctrine is not a harmless absurdity; it is a most dangerous heresy. It is a doctrine which cannot be practised without

producing, not discord only, but bloodshed. If you pass the bill upon your table, the judges have a constitutional right to declare it void. I hope they will have courage to exercise that right; and if, sir, I am called upon to take my side, standing acquitted, in my conscience and before my God, of all motives but the support of the constitution of my country, I shall not tremble at the consequences.

The constitution may have its enemies, but I know that it has also its friends. I beg gentlemen to pause before they take this rash step. There are many, very many, who believe, if you strike this blow, you inflict a mortal wound on the constitution. There are many now willing to spill their blood to defend that constitution. Are gentlemen disposed to risk the consequences? Sir, I mean no threats; I have no expectation of appalling the stout hearts of my adversaries; but if gentlemen are regardless of themselves, let them consider their wives and children, their neighbors and their friends. Will they risk civil dissension, will they hazard the welfare, will they jeopardize the peace of the country to save a paltry sum of money, less than thirty thousand dollars?

Mr. Chairman, I am confident that the friends of this measure are not apprized of the nature of its operation, nor sensible of the mischievous consequences which are likely to attend it. Sir, the morals of your people, the peace of the country, the stability of the government, rest upon the maintenance of the independence of the judiciary. It is not of half the importance in England that the judges should be independent of the crown, as it is with us, that they should be independent of the legislature. Am I asked, Would you render the judges superior to the legislature? I answer, No, but coördinate. Would you render them independent of the legislature? I answer, Yes, independent of every power on earth, while they behave themselves well. The essential interests, the permanent welfare of society, require this independence; not, sir, on account of the judge; that is a small consideration; but on account of those between whom he is to decide. You calculate on the weaknesses of human nature, and you suffer the judge to be dependent on no one, lest he should be partial to those on whom he depends. Justice does not exist where partiality prevails. A dependent judge cannot be impartial. Independence is, therefore, essential to the purity of your judicial tribunals.

Let it be remembered, that no power is so sensibly felt by society as that of the judiciary. The life and property of every man is liable to be in the hands of the judges. Is it not our great interest to place our judges upon such high ground that no fear can intimidate, no hope seduce them? The present measure humbles

them in the dust; it prostrates them at the feet of faction; it renders them the tools of every dominant party. It is this effect which I deprecate; it is this consequence which I deeply deplore. What does reason, what does argument avail, when party spirit presides? Subject your bench to the influence of this spirit, and justice bids a final adieu to your tribunals. We are asked, sir, if the judges are to be independent of the people. The question presents a false and delusive view. We are all the people. We are, and as long as we enjoy our freedom, we shall be divided into parties. The true question is, Shall the judiciary be permanent, or fluctuate with the tide of public opinion? I beg, I implore gentlemen to consider the magnitude and value of the principle which they are about to annihilate. If your judges are independent of political changes, they may have their preferences, but they will not enter into the spirit of party. But let their existence depend upon the support of the power of a certain set of men, and they cannot be impartial. Justice will be trodden under foot. Your courts will lose all public confidence and respect.

The judges will be supported by their partisans, who, in their turn, will expect impunity for the wrongs and violence they commit. The spirit of party will be inflamed to madness; and the moment is not far off, when this fair country is to be desolated by a civil war.

Do not say that you render the judges dependent only on the people. You make them dependent on your president. This is his measure. The same tide of public opinion which changes a president, will change the majorities in the branches of the legislature. The legislature will be the instrument of his ambition, and he will have the courts as the instrument of his vengeance. He uses the legislature to remove the judges, that he may appoint creatures of his own. In effect, the powers of the government will be concentrated in the hands of one man, who will dare to act with more boldness, because he will be sheltered from responsibility. The independence of the judiciary was the felicity of our constitution. It was this principle which was to curb the fury of party on sudden changes. The first moments of power, gained by a struggle, are the most vindictive and intemperate. Raised above the storm, it was the judiciary which was to control the fiery zeal, and to quell the fierce passions of a victorious faction.

We are standing on the brink of that revolutionary torrent which deluged in blood one of the fairest countries of Europe.

France had her national assembly, more numerous and equally popular with our own. She had her tribunals of justice, and her juries. But the legislature and her courts were but the instruments of her destruction. Acts of proscription and sentences of

banishment and death were passed in the cabinet of a tyrant. Prostrate your judges at the feet of party, and you break down the mounds which defend you from this torrent. I am done. I should have thanked my God for greater power to resist a measure so destructive to the peace and happiness of the country. My feeble efforts can avail nothing. But it was my duty to make them. The meditated blow is mortal, and from the moment it is struck, we may bid a final adieu to the constitution.

SPEECH OF GOUVERNEUR MORRIS,

RELATIVE TO THE

FREE NAVIGATION OF THE MISSISSIPPI,

DELIVERED IN THE SENATE OF THE UNITED STATES,
FEBRUARY 25, 1803.

The treaty of 1795, between the United States and Spain, secured the free navigation of the river Mississippi, and a privilege of deposit in the island of New Orleans, for three years, to the citizens of the United States.

The treaty stipulated, moreover, that this privilege should be continued after the expiration of the three years, if, during that time, it was found not to be prejudicial to the interests of Spain. And it further stipulated, that if the privilege should not be continued there, an equivalent establishment should be assigned at some other place upon the bank of the Mississippi.

In October, 1802, the intendant of New Orleans issued a proclamation, prohibiting the citizens of the United States from depositing their merchandise, &c. at New Orleans, without assigning any other equivalent establishment according to the provisions of the treaty.

In reference to this alleged breach of the treaty, Mr. Ross introduced the following resolutions:—

Resolved, That the United States of America have an indisputable right to the free navigation of the river Mississippi, and to a convenient deposit for their produce and merchandise in the island of New Orleans;

That the late infraction of such their unquestionable right is an aggression, hostile to their honor and interest;

That it does not consist with the dignity or safety of this union to hold a right so important by a tenure so uncertain;

That it materially concerns such of the American citizens as dwell on the western waters, and is essential to the union, strength and prosperity of these states, that they obtain complete security for the full and peaceful enjoyment of such their absolute right;

That the president be authorized to take immediate possession of some place or places in the said island, or the adjacent territories, fit and convenient for the purposes aforesaid, and to adopt such measures for obtaining that complete security, as to him, in his wisdom, shall seem meet;

That he be authorized to call into actual service any number of the militia of the states of South Carolina, Georgia, Tennessee, Kentucky and Ohio, and the Mississippi Territory, which he may think proper, not exceeding fifty thousand, and to employ them, together with the naval and military force of the union, for effecting the object above mentioned; and that the sum of five millions of dollars be appropriated to the carrying into effect the foregoing resolutions, and that the whole or any part of that sum be

paid or applied on warrants, drawn in pursuance of such directions as the president may from time to time think proper to give to the secretary of the treasury.

Mr. President,

I rise with reluctance on the present occasion. The lateness of the hour forbids me to hope for your patient attention. The subject is of great importance as it relates to other countries, and still greater to our own; yet we must decide on grounds uncertain, because they depend on circumstances not yet arrived. And when we attempt to penetrate into futurity, after exerting the utmost powers of reason, aided by all the lights which experience could acquire, our clearest conceptions are involved in doubt. A thousand things may happen, which it is impossible to conjecture, and which will influence the course of events. The wise Governor of all things hath hidden the future from the ken of our feeble understanding. In committing ourselves, therefore, to the examination of what may hereafter arrive, we hazard reputation on contingencies we cannot command. And when events shall be past, we shall be judged by them, and not by the reasons which we may now advance.

There are many subjects which it is not easy to understand, but it is always easy to misrepresent, and when arguments cannot be controverted, it is not difficult to calumniate motives. That which cannot be confuted may be misstated. The purest intentions may be blackened by malice; and envy will ever foster the foulest imputations. This calumny is among the sore evils of our country. It began with our earliest success in '78, and has gone on, with accelerated velocity and increasing force, to the present hour. It is no longer to be checked; nor will it terminate but in that sweep of general destruction to which it tends with a step as sure as time, and fatal as death. I know that what I utter will be misunderstood, misrepresented, deformed and distorted; but we must do our duty. This, I believe, is the last scene of my public life; and it shall, like those which have preceded it, be performed with candor and truth. Yes, my friends, we shall soon part to meet no more. But however separated, and wherever dispersed, we know that we are united by just principle and true sentiment—a sentiment, my country, ever devoted to you, which will expire only with expiring life, and beat in the last pulsation of our hearts.

Mr. President, my object is peace. I could assign many reasons to show that this declaration is sincere. But can it be necessary to give this senate any other assurance than my word? Notwithstanding the acerbity of temper which results from party strife, gentlemen will believe me on my word. I will not pretend, like

my honorable colleague (Mr. Clinton), to describe to you the waste, the ravages, and the horrors of war. I have not the same harmonious periods, nor the same musical tones; neither shall I boast of Christian charity, nor attempt to display that ingenuous glow of benevolence, so decorous to the cheek of youth, which gave a vivid tint to every sentence he uttered, and was, if possible, as impressive even as his eloquence. But, though we possess not the same pomp of words, our hearts are not insensible to the woes of humanity. We can feel for the misery of plundered towns, the conflagration of defenceless villages, and the devastation of cultured fields. Turning from these features of general distress, we can enter the abodes of private affliction, and behold the widow weeping, as she traces, in the pledges of connubial affection, the resemblance of him whom she has lost forever. We see the aged matron bending over the ashes of her son. He was her darling, for he was generous and brave; and therefore his spirit led him to the field in defence of his country. We can observe another oppressed with unutterable anguish; condemned to conceal her affection; forced to hide that passion, which is at once the torment and delight of life: she learns that those eyes, which beamed with sentiment, are closed in death; and his lip, the ruby harbinger of joy, lies pale and cold, the miserable appendage of a mangled corse. Hard, hard indeed, must be that heart which can be insensible to scenes like these; and bold the man who dare present to the Almighty Father a conscience crimsoned with the blood of his children!

Yes, sir, we wish for peace; but how is that blessing to be preserved? I shall repeat here a sentiment I have often had occasion to express. In my opinion, there is nothing worth fighting for but national honor; for in the national honor is involved the national independence. I know that a state may find itself in such unpropitious circumstances, that prudence may force a wise government to conceal the sense of indignity. But the insult should be engraven on tablets of brass with a pencil of steel. And when that time and chance, which happen to all, shall bring forward the favorable moment, then let the avenging arm strike home. It is by avowing and maintaining this stern principle of honor, that peace can be preserved. But let it not be supposed that any thing I say has the slightest allusion to the injuries sustained from France, while suffering in the pangs of her revolution. As soon should I upbraid a sick man for what he might have done in the paroxysms of disease. Nor is this a new sentiment: it was felt and avowed at the time when these wrongs were heaped upon us; and I appeal for the proof to the files of your secretary of state. The destinies of France were then in the hands of monsters. By the decree of Heaven she was broken on the wheel, in the face of

the world, to warn mankind of her folly and madness. But these scenes have passed away. On the throne of the Bourbons is now seated the first of the Gallic Cæsars. At the head of that gallant nation is the great, the greatest man of the present age. It becomes us well to consider his situation. The things he has achieved compel him to the achievement of things more great. In his vast career, we must soon become objects to command attention. We, too, in our turn, must contend or submit. By submission we may indeed have peace, alike precarious and ignominious. But is this the peace which we ought to seek? Will this satisfy the just expectation of our country? No. Let us have peace, permanent, secure, and, if I may use the term, independent—peace, which depends not on the pity of others, but on our own force. Let us have the only peace worth having—a peace consistent with honor.

A gentleman near me (Mr. Jackson) has told us the anecdote of an old courtier, who said, that the interest of his nation was the honor of his nation. I was surprised to hear that idea from that gentleman; but it was not his own. Such is that gentleman's high sense of his personal honor, that no interest would induce him to sacrifice it. He would not permit the proudest prince on earth to blot or soil it. Millions would not purchase his honor; and will he feel less for the honor of his country? No; he will defend it with his best blood. He will feel with me, that our national honor is the best security for our peace and our prosperity; that it involves at once our wealth and our power. And in this view of the subject, I must contradict a sentiment which fell from my honorable colleague (Mr. Clinton). He tells us, that the principle of this country is peace and commerce. Sir, the avowal of such principle will leave us neither commerce nor peace. It invites others to prey on that commerce, which we will not protect, and share the wealth we dare not defend. But let it be known, that you stand ready to sacrifice the last man, and the last shilling, in defence of your national honor, and those, who would have assailed, will beware of you.

Before I go into a minute consideration of this subject, I will notice what the gentlemen opposed to me have said on the law of nations. But I must observe, that, in a conjuncture like the present, there is more sound sense, and more sound policy, in the firm and manly sentiments which warm the hearts of my friends from Delaware, than in all the volumes upon all the shelves of the civilians. Let us, however, attend to the results of those logical deductions which have been made by writers on the law of nations. The honorable member from Kentucky (Mr. Breckenridge) has told us, that sovereigns ought to show a sincere desire of peace, and should not hastily take offence; because it may be,

that the offensive act was the result of mistake. My honorable colleague has told us, that among the justifiable causes of war are the deliberate invasions of right, and the necessity of maintaining the balance of power. He has told us, further, that attempts should always be made to obtain redress by treaty, unless it be evident that redress cannot be so obtained. The honorable member from Georgia, near me, informs us, that the thing we would obtain by war should be important, and the success probable, and that war should be avoided until it be inevitable. The honorable member from Maryland (Mr. Wright) has explained to us the case cited by the gentleman from Kentucky, as being that of a wrong done by a private citizen. Under the weight of all this authority, and concurring with gentlemen in these their positions, I shall take leave to examine the great question we are called on to decide. I shall moreover fully and entirely agree with the honorable member near me in another point. He has, with the usual rapidity of his mind, seized the whole object. He tells us, and he tells us truly, that the island of Orleans and the two Floridas are essential to this country. They are joined, says he, by God, and sooner or later we must and will have them. In this clear and energetic statement I fully agree; and the greater part of what I have to say will be but a commentary on the doctrines they have advanced, an elucidation of their positions, and the confirmation of that strong conclusion.

In order to bring this extensive subject within such bounds as may enable us to take a distant view of its several parts, I shall consider, first, the existing state of things; secondly, the consequence to the United States of the possession of that country by France; thirdly, the consequence to other nations; fourthly, the importance of it to France herself; fifthly, its importance to the United States if possessed by them; and having thus examined the thing itself in its various relations, the way will be open to consider, sixthly, the effect of negotiation; and then, seventhly, the consequences to be expected from taking immediate possession.

Before I consider the existing state of things, let me notice what gentlemen have said in relation to it. The honorable member from Kentucky has told us, that indeed there is a right arrested, but whether by authority or not, is equivocal. He says the representative of Spain verily believes it to be an unauthorized act. My honorable colleague informs us, there has been a clashing between the governor and the intendant. He says, we are told by the Spanish minister it was unauthorized. Notwithstanding these assurances, however, my honorable colleague has, it seems, some doubts; but, nevertheless, he presumes innocence; for my colleague is charitable. The honorable member from Maryland goes further: he tells us the minister of Spain says, the

intendant had no such authority; and the minister of France, too, says there is no such authority. Sir, I have all possible respect for those gentlemen, and every proper confidence in what they may think proper to communicate. I believe the Spanish minister has the best imaginable disposition to preserve peace; being indeed the express purpose for which he was sent among us. I believe it to be an object near to his heart, and which has a strong hold upon his affections. I respect the warmth and benevolence of his feelings, but he must pardon me that I am deficient in courtly compliment; I am a republican, and cannot commit the interests of my country to the goodness of his heart.

What is the state of things? There has been a cession of the island of New Orleans and of Louisiana to France. Whether the Floridas have also been ceded is not yet certain. It has been said, as from authority, and I think it probable. Now, sir, let us note the time and the manner of this cession. It was at or immediately after the treaty of Luneville, at the first moment when France could take up a distant object of attention. But had Spain a right to make this cession without our consent? Gentlemen have taken it for granted that she had. But I deny the position. No nation has a right to give to another a dangerous neighbor without her consent. This is not like the case of private citizens; for there, when a man is injured, he can resort to the tribunals for redress; and yet, even there, to dispose of property to one who is a bad neighbor is always considered as an act of unkindness. But as between nations who can redress themselves only by war, such transfer is in itself an aggression. He who renders me insecure—he who hazards my peace, and exposes me to imminent danger—commits an act of hostility against me, and gives me the rights consequent on that act. Suppose Great Britain should give to Algiers one of the Bahamas, and contribute thereby to establish a nest of pirates near your coasts; would you not consider it as an aggression? Suppose, during the late war, you had conveyed to France a tract of land along the river Hudson and the northern route by the lakes into Canada, would not Britain have considered and treated it as an act of direct hostility? It is among the first limitations to the exercise of the rights of property, that we must so use our own as not to injure another; and it is under the immediate sense of this restriction that nations are bound to act toward each other.

But it is not this transfer alone: there are circumstances, both in the time and in the manner of it, which deserve attention. A gentleman from Maryland (Mr. Wright) has told you, that all treaties ought to be published and proclaimed for the information of other nations. I ask, was this a public treaty? No. Was official notice of it given to the government of this country?

Was it announced to the president of the United States, in the usual forms of civility between nations who duly respect each other? It was not. Let gentlemen contradict me if they can. They will say, perhaps, that it was the omission only of a vain and idle ceremony. Ignorance may, indeed, pretend, that such communication is an empty compliment, which, established without use, may be omitted without offence. But this is not so. If these be ceremonies, they are not vain, but of serious import, and are founded on strong reason. He who means me well, acts without disguise. Had this transaction been intended fairly, it would have been told frankly. But it was secret because it was hostile. The first consul, in the moment of terminating his differences with you, sought the means of future influence and control. He found and secured a pivot for that immense lever by which, with potent arm, he means to subvert your civil and political institutions. Thus the beginning was made in deep hostility. Conceived in such principles, it presaged no good. Its bodings were evil, and evil have been its fruits. We heard of it during the last session of congress; but to this hour we have not heard of any formal and regular communication from those by whom it was made. Has the king of Spain—has the first consul of France—no means of making such communication to the president of the United States? Yes, sir, we have a minister in Spain; we have a minister in France. Nothing was easier, and yet nothing has been done. Our first magistrate has been treated with contempt; and through him our country has been insulted.

With that meek and peaceful spirit, now so strongly recommended, we submitted to this insult; and what followed? That which might have been expected; a violation of our treaty—an open and direct violation by a public officer of the Spanish government. This is not the case cited from one of the books. It is not a wrong done by a private citizen, which might, for that reason, be of doubtful nature. No; it is by a public officer—that officer, whose particular department it was to cause the faithful observance of the treaty which he has violated. We are told, indeed, that there was a clashing of opinion between the governor and the intendant. But what have we to do with their domestic broils? The injury is done: we feel it. Let the fault be whose it may, the suffering is ours. But, say gentlemen, the Spanish minister has interfered to correct this irregular procedure. Sir, if the intendant was amenable to the minister, why did he not inform him of the step he was about to take, that the president of the United States might seasonably have been apprized of his intention, and given the proper notice to our fellow-citizens? Why has he first learned this offensive act from those who suffer by it? Why is he thus held up to contempt and derision? If the in-

tendant is to be controlled by the minister, would he have taken a step so important without his advice? Common sense will say no. But the bitter cup of humiliation was not yet full. Smarting under the lash of the intendant, the minister soothes you with kind assurances, and sends advice-boats to announce your forbearance. But while they are on their way, new injury and new insult are added. The intendant, as if determined to try the extent of your meekness, forbids to your citizens all communication with those who inhabit the shores of the Mississippi. Though they should be starving, the Spaniard is made criminal who should give them food. Fortunately, the waters of the river are potable, or else we should be precluded from the common benefits of nature, the common bounty of Heaven. What, then, I ask, is the amount of this savage conduct? Sir, it is war—open and direct war. And yet gentlemen recommend peace, and forbid us to take up the gauntlet of defiance. Will gentlemen sit here and shut their eyes to the state and condition of their country? I shall not reply to what has been said respecting depredations on commerce, but confine myself to objects of which there can be no shadow of doubt. Here is a vast country given away, and not without danger to us. Has a nation a right to put these states in a dangerous situation? No, sir. And yet it has been done, not only without our consent previous to the grant, but without observing the common forms of civility after it was made. Is that wonderful man who presides over the destinies of France ignorant or unmindful of these forms? See what was done the other day. He directed his minister to communicate to the elector of Bavaria his intended movements in Switzerland, and their object. He knew the elector had a right to expect that information, although the greater part of Suabia lies between his dominions and Switzerland. And this right is founded on the broad principles already mentioned.

As to the depredations on our commerce, they are numerous, and of great importance; but my honorable colleague has told us, our merchants are in a fair way of getting redress. I own, sir, I am surprised at this information, which is, I presume, a state secret, communicated from the executive department. My honorable colleague, who is the pattern of discretion, who was the monitor, and threatened to be the castigator of those, who, from treachery or weakness, might betray or divulge the secrets of the senate, cannot possibly allude to any thing on our files. He has, therefore, received this information from some other quarter, and I feel myself much obliged by his kind communication. But he must pardon me, sir, that, until it comes forward in some body, shape, or condition which I can grasp, I am compelled to withhold my faith.

Having thus examined the existent state of things, I proceed to consider the consequence to the United States, resulting from the possession of that country by France. To this effect, I shall suppose the Floridas to be included in her newly-acquired dominion, and shall state what I conceive to be the conduct which she will pursue. She will, I presume, consider herself as not bound by our treaty with Spain. Declaring this to the inhabitants of the western country, and repelling the claim of right, she will (as matter of favor) give them unlimited freedom of trade to and from New Orleans. At that place, she will eventually raise a considerable duty on exports, to pay the expense of her garrisons, and of the civil administration. But, to compensate this, she will probably give an exclusive privilege of commerce to her colonies, and obtain from Spain and Holland similar privileges. Under these circumstances, let us examine the general and particular consequences to this, our country.

The general consequences are those which affect our commerce, our revenue, our defence, and what is of more importance even than these, our union. Your commerce will suffer, because you will no longer hold the means of supplying the West India islands, subject to your single control; and because all the export from New Orleans, being, of course, in French bottoms, your navigation will be proportionably diminished. Your revenue will suffer as much as your commerce. The extensive boundary of more than two thousand miles will be stocked with goods for the purpose of contraband trade. The inhabitants will naturally take their supplies in that way. You must, therefore, multiply your revenue officers and their assistants, and while your receipt diminishes, the expense of collection will be increased. As to what regards your defence, it is evident, that the decrease of your navigation and revenue must narrow your means of defence. You cannot provide the same force, either by land or by sea; but the evil does not stop here. With this country in your possession, you have means of defence more ample, more important, more easy than any nation on earth. In a short time, all the West India islands, fed from your granaries, must depend on your will. And, in consequence, all the powers of Europe, who have colonies there, must court your friendship. Those rich sources of commercial importance will be, as it were, in your hands. They will be pledges for the amity of others, in seas and dominions far remote. It is a defence, which, though it costs you nothing, is superior to fleets and armies. But let the resources of America be divided (which must happen when the French are masters of New Orleans), and all this power and influence are gone. One half of your resources will be in their hands, and they will laugh at your feeble attempts with the other half. It is the interest of

this country, that the possessions of European powers in the West Indies should be secured to them; and in this view of the subject, it is important that the island of St. Domingo should be subjected by France: it would, therefore, have been wise to have aided in that subjugation. There is, indeed, a special reason for it beyond the considerations of external policy. That event will give to your slaves the conviction, that it is impossible for them to become free. Men in their unhappy condition must be impelled by fear, and discouraged by despair. Yes—the impulsion of fear must be strengthened by the hand of despair! Consider, moreover, your condition in the wars which are most likely to happen. These must be either with France or England. If with France, your interior is ruined; if with England, the commerce of the Atlantic states will be distressed, and that of the western country too, though not perhaps in so great a degree. Thus let the war be with whichsoever of those nations it may, one half of the United States must be peculiarly injured; and in all cases, it will be difficult for them to assist each other. The interior has no seamen for naval defence; the seaboard can send few, if any troops, beyond the mountains. This powerful influence of one nation on one great division of our country, and of another nation on the remainder, will tend to disunite us. The ridge of mountains will mark the line of distinct interests. The effect of those differing interests will be felt in your councils. It will find its way to this floor. This must be the case so long as man is man. Look, I pray, at those nations. The enmity of France and England can terminate only by the subjection of one to the dominion of the other. It must be by the complete exertion of force, and the utter impossibility of resistance. They are the Rome and Carthage of modern times. Their implacable spirit will stimulate them to attempt a division of this country, by sentiments of hatred, deadly as their own. These efforts will, I hope, be vain: but with such powerful engines to operate on the interest and the will, is there not danger to that union so essential to our prosperity? There will be a constant struggle in congress as to the kind of public force which ought to be maintained. The one part will desire an army, the other a navy. The unyielding spirit of party will, perhaps, prevent the support of either; leaving the nation completely defenceless, and thereby increasing the power of those who may influence or command our destinies. For, let it be remembered, that a nation without public force is not an independent nation. In a greater or smaller degree, she will receive the law from others.

Having thus considered the effect of this cession upon the United States, in a general point of view, let us now examine it more particularly as it regards the greater divisions of our country; the

Western, the Southern, the Middle, and the Eastern States. I fear, sir, I shall detain you longer than I intended, certainly longer than the light of day will last, notwithstanding my effort to comprise what I have to say in the smallest compass. As to the Western States, the effects will be remote and immediate. Those more remote may be examined under the twofold aspect of peace and war. In peace, they will suffer the diminution of price for their produce. The advantage of supplying the French, Dutch and Spanish colonies may, at first sight, lead to a different opinion; but when the port of New Orleans is shut to all but French ships, there will no longer be that competition which now exists, and which always results in the highest price that commodities can bear. The French merchants have neither the large capital, nor have they the steady temper and persevering industry which foster commerce. Their invariable object in trade is to acquire sudden wealth by large profit; and if that cannot be done, they abandon the pursuit for some new project. Certain of the market, and certain of the increasing supply, they will prescribe the price, both to those who cultivate, and to those who consume. Such will be the effect in peace. In a war with England, the attention of her fleets to cut off supplies from her enemies, must necessarily affect the price of produce in a still greater degree; and in a war with France it will bear no price at all until New Orleans shall be wrested from their grasp. Add to this the danger and the devastation from the troops of that country, aided by innumerable hosts of savages from the western wilds. Such being the evident effects to be produced in times not far remote, the present evil follows from the anticipation of them. The price of land must be reduced from the certainty that its produce will become less valuable. The flood of emigration to those fertile regions must cease to flow. The debts, incurred in the hope of advantageous sales, must remain unpaid. The distress of the debtor must then recoil on his creditor, and, from the common relations of society, become general.

What will be the effect on the Southern States? Georgia, Carolina and the Mississippi Territory are exposed to invasion from the Floridas and New Orleans. There are circumstances in that portion of America which render the invasion easy, and the defence difficult. Pensacola, though the climate be warm, is among the healthiest spots on earth. Not only a large garrison, but an army may remain there without hazard. At Pensacola and St. Augustine forces may be assembled to operate in that season of the year when the morasses which separate them from our southern frontier no longer breathe pestilence. By what are those armies to be opposed? Will you call the militia from the north to assist their southern brethren? They are too remote. Will you, to secure

their seasonable aid, bring them early to the fields they are ordered to defend? They must perish. The climate, more fatal than the sword, will destroy them before they see their foe. The country adjoining to our southern frontier is now in possession of the most numerous tribes of savages we are acquainted with. The access to it from New Orleans and the Floridas is easy and immediate. The toys and gewgaws manufactured in France will be scattered in abundance, to win their affections and seduce them from their present connection. The talents of the French to gain the good will of the savages, is well known; and the disposition of those uncultured men for war is equally notorious. Here, then, is a powerful instrument of destruction, which may be used against you with ruinous effect. Besides, what is the population of the Southern States? Do you not tremble when you look at it? Have we not, within these few days, passed a law to prevent the importation of certain dangerous characters? What will hinder them from arriving in the Floridas, and what can guard the approach from thence to our southern frontier? These pernicious emissaries may stimulate, with a prospect of freedom, the miserable men who now toil without hope. They may excite them to imitate a fatal example, and to act over those scenes which fill our minds with horror. When the train shall be laid, when the conspiracy shall be ripe, when the armies of France shall have reached your frontier, the firing of the first musket will be a signal for general carnage and conflagration. If you will not see your danger now, the time must soon arrive when you shall feel it. The Southern States being exposed to such imminent danger, their representatives may be made to know, that a vote given in congress shall realize the worst apprehensions. You will then feel their danger even on this floor.

Such being the probable result as to the Southern, what will it be to the Middle States? Their trade to the West India islands is gone the moment that country is in possession of the French. England, to whose dominions alone they can have recourse for the vent of their produce and the purchase of their supplies, will confine that commerce to her own ships. I say, the moment the French are in possession of New Orleans, your West India trade is gone. I do not mean that this effect will be sudden as a flash of lightning; but it will be gone in a few years, which may be considered as a moment, when compared with national existence. You will then be dependent for that trade on the good will of England; and, as your navigation decreases, your dependence will be still greater, because you will rely on her navy for your protection. I again repeat, that when it shall be a question in your councils whether you will have a navy, the increasing weight of the west-

ern country will be thrown into the scale of opposition. They will insist on an army for their protection. My honorable colleague has expressed his fears from a standing army. Sir, your present negligence will put you under the necessity of having such an army, and expose you to all the consequences to be apprehended from it. You may, indeed, remain united in a body as one nation, but with such contrarient interests and opinions, with sentiments and views so different, it will be a large and languishing body without a soul.

To the Eastern States, when separately considered, this may appear a matter of less moment than to the other great divisions of our country. But they will perceive in it the loss of their navigation; they will see the theatre of their industrious exertions contracted; they will feel the loss of the productions of that western world in the mass of their commercial operations; and above all, they will feel the loss of an ample resource for their children. These western regions are peculiarly their heritage. It is the property of the fathers of America, which they hold in trust for their children. The exuberant population of the Eastern States flows in a steady stream to the western world; and if that be rendered useless, or pass under the dominion of a foreign power, the fairest hope of posterity is destroyed. The time may come, and I fear it will come, when those who cross the mountains will cross the line of jurisdiction. Whether we consider, therefore, this object in its relations to our general policy, or examine its bearings on the greater divisions of our country, we find ample reason to agree with the gentleman near me, that New Orleans and the Floridas must not be separated from the United States.

Let us now consider the consequence of the cession we complain of to other nations; and this we may do generally, and then more especially as to those who have a direct and immediate interest in the transaction. In a general view, the first prominent feature is the colossal power of France. Dangerous to Europe and to the world, what will be the effect of a great increase of that power? Look at Europe. One half of it is blotted from the list of empire. Austria, Russia, Prussia and Britain are the only powers remaining, except Sweden and Denmark; and they are paralized. Where is Italy, Switzerland, Flanders, and all Germany west of the Rhine? Gone, swallowed up in the empire of the Gauls! Holland, Spain, Portugal, reduced to a state of submission and dependence! What is the situation of the powers that remain? Austria is cut off from Italy, the great object of her ambition for more than three centuries; long the rival of France, long balancing with the Bourbons the fate of Europe, she must now submit, and tacitly acknowledge to the world the superiority of her

foe and her own humiliation. Prussia, under the auspices of the great Frederick, was at the head of a Germanic league to balance the imperial power. Though united with Austria for a moment in the hollow league of the coalition, she has, like Austria, been actuated by a blind jealousy, and favoring the operations of France for the ruin of her rival, expected to share largely in the general spoil. In this fond hope she is disappointed; she now sees the power of France at her door. There is not a fortress from the Rhine to the Baltic, except Magdeburg, which the first consul may leave on his left. The fertile plains near Leipsic contain the magazines for his armies, when he shall think proper to march to Berlin. Westphalia and Lower Saxony are open on the side of Flanders and Holland. The Maine presents him a military road to the borders of Bohemia. By the Necker he approaches Ulm, and establishes himself on the Danube. These rivers enable him to take the vast resources of his wide domain to the point where he may wish to employ them. Menacing at pleasure his neighbors, he is himself secured by a line of fortresses along his whole frontier. Switzerland, which was the only feeble point of his defence, and which separated his Gallic and Italian dominions, has lately been subjected. The voice you now hear warned the Swiss of their fate more than eight years ago. The idea seemed then extravagant; but realized, it appears but as a necessary incident. Russia is deprived of her influence in Germany, and thereby of a principal instrument by which her policy might operate on the great powers of the south. The Germanic body is, indeed, in the hand of the first consul. Three new electors along the Rhine are under the mouths of his cannon. They dare not speak—speak! None dare speak; they dare not think any thing inconsistent with his wishes. Even at their courtly feasts they sit like Damocles, destruction suspended over their heads by a single hair. Would you know the sentiment of England? Look at the debates in the two houses of parliament; they speak their fears. Such being the general sentiment of Europe, can it be supposed that they will view, without anxiety, a new extension of that power and dominion, the object of their hatred and apprehension?

Will it be said that there is a security to the freedom of mankind from the moderation with which this enormous power is to be exercised? Vain delusion! This power is not the result of accident. At the moment when France dethroned her sovereign, it was easy to foresee that a contest must ensue, in which her existence would be staked against the empire of the world. If not conquered by surrounding princes (and the hope of such conquest, unless by the aid of her own citizens, was idle), her numerous armies, acquiring discipline, must eventually conquer.

She had the advantages of situation, and those which result from union, opposed to councils uncertain and selfish. It was easy also to foresee, that in the same progress of events, some fortunate soldier would seat himself on the vacant throne; for the idea of a French republic was always a ridiculous chimera. Bonaparte has placed himself at the head of that nation by deeds which cast a lustre on his name. In his splendid career he must proceed. When he ceases to act, he will cease to reign. Whenever, in any plan, he fails, that moment he falls. He is condemned to magnificence. To him are forbidden the harmonies and the charities of social life. He commands a noble and gallant nation passionately fond of glory. That nation stimulates him to glorious enterprise, and because they are generous and brave, they insure his success. Thus the same principle presents at once the object and the means. Impelled by imperious circumstances, he rules in Europe, and he will rule here also, unless by vigorous exertion you set a bound to his power.

Having thus cast a rapid glance on the general state of Europe, it remains to look particularly at the condition of England and Spain, so far as they may be affected by the cession of those provinces to France. England will see in it an increase of commerce and naval force for her rival. She will see imminent danger to her islands, and particularly to Jamaica. The climate of Pensacola has already been noticed. The position is of incalculable moment. During the sickly and hurricane season, fleets and armies may wait there in safety, till their enemy shall be enfeebled and unprotected. Where will the British fleets and armies be stationed with equal advantage? If they ask an asylum in your ports, you must refuse; for, should you listen to any such proposition, your kindness would be considered as a hostile aggression. The influence of France on the United States (which has already been noticed) will give double weight to her representations. And this very influence is among the effects which Britain must deprecate. I have not time to dwell on this subject, nor many others as fully as I ought. The condition of Spain is not less worthy of notice. No two nations on earth have more rooted hatred for each other than France and Spain. There are none more different in essential points of character. United, however, under sovereigns of the same family, these antipathies were wearing away. But the fatal stroke which destroyed the French monarch has severed that band. Force has since produced not union, but submission. It is not in nature that the Spanish king should foster kindly sentiments for him who has decked himself in the spoil of his house. The proud, the brave and the loyal Castilian groans under the yoke which galls him, but which he can-

not break, and sickens at the recollection of his ancient glory. His deep resentments are known, and it is to prevent their effects that he has been compelled to make the cession of those provinces. France will then hold at her discretion the Spanish treasures, and the rich provinces of the new world. At the first symptom of hostile sentiment, she arrests the means of aggression. Thus the dependence of Spain is rendered absolute, and her chains are riveted forever. Does Spain behold this state of things with calm indifference? No: she feels all the pangs of wounded pride, driven to the necessity of perpetuating its own humiliation.

A few words, after what has already been said, will suffice to show the importance of those provinces to France. This results from the influence on her rival, on Spain, and on the United States, by means of the position, the resources and the means of aggression which those provinces afford. Enough has been said of the position. The resources are great and increasing. Not only cotton and indigo will be furnished for her manufactures, but supplies and subsistence for her colonies and her troops. These resources, too, will be at the very point most important, both for defence and aggression. The same force will be ready to operate either against England, Spain, or America. Thus that force will be trebled in its moral effect, and influence alike the conduct of all, against whom it may be directed. To what has been said on the facility with which we may be assailed, I might add much, but it is unnecessary. It behooves us, however, to consider well the spirit of the French government, which, in all its changes, has never lost sight of this object. The French minister, M. de la Luzerne, when congress were deliberating on the *ultima* for peace, obtained a resolution that our ministers should, as to our western boundary, treat under the dictation of France. Our ministers disdained the condition, and refused to obey. Their manly conduct obtained for you the countries whose fate is now suspended on your deliberations. Never, no, never has France lost sight of Louisiana. Never for a moment has she been blind to its importance. Those who, driven from her bosom into exile, wandered about among us, have gathered and communicated the fullest information. While they enjoyed your hospitality, they probed your weakness, and meditated the means of controlling your conduct. Whatever may be the fair appearances, rely on it, that every Frenchman bears with him every where a French heart; and so he ought. I honor him for it. O that Americans had always an American heart!

It remains to notice the advantage of this country to the United States, as it may relate to our power, our peace, our commerce, and, above all, to our freedom. As to our power, something has

already been said on the peaceful influence which results from the dependence of colonies belonging to the great nations of Europe: add to this, that the product of those colonies must pass by our doors and be exposed to our cruisers. A further advantage is to be found in the ready means of invasion (in concert with the troops of others), if driven to the necessity of war. The possession of power will give us, not only security, but peace. Peace indeed can never be safe but by the aid of power. Our disposition is pacific. It is our interest to be at peace, and the form of our government, while it secures to us the enjoyment of as much liberty as is possible, renders it particularly imprudent to risk in war any change of the constitution. Grant us these provinces, and we can dictate the conditions of our commerce with the islands. Possessed of them it will be doubly lucrative, and without them wholly uncertain. There is another stream of profitable trade which will then flow in our channels. The risk and difficulty which Spain experiences in bringing home her treasures, when she is at war, will naturally suggest the advantage of remitting them though this country. The produce of the Mexican mines may then be shipped directly to Asia. It will be paid for to Spain by bills on the commercial nations, and thus furnish to her the easy means of obtaining the supplies she may stand in need of. The bullion will be so much the more valuable, as the danger and expense of transportation are diminished. This, therefore, would have a beneficial result upon the whole commercial world. It would more especially emancipate Spain from her present thraldom. It would give a happy change to all her interior administration, and increase both her absolute and relative force. Let me say here, that it is our interest to preserve the authority of Spain over her American territory. We have enough of our own. We can have no wish to extend our dominions. We want men, not land. We are, therefore, the natural and the safe guardians of Spain. On us she may rely with perfect confidence. We can derive from that commerce which it is her interest to permit, all the advantage we ought to ask. But great as are the benefits which will result from the possession of the Floridas and New Orleans—great as is their tendency to advance our power, secure our peace, and extend our commerce—there is a consideration, in comparison with which, commerce, peace and power are of but slight avail. These provinces will fortify the defences of our freedom. My honorable colleague has stated to you his apprehensions of standing armies. And yet, sir, if we be not possessed of this territory, standing armies become necessary. Without an imposing military force, the inhabitants of the western country will be in such immediate danger, that they must league with a neighbor who will have every thing to offer,

and from whom they will have every thing to fear. This will lead to the worst of all wars, to civil war. And when that shall happen, liberty will soon be lost. The army, which has defeated one half the nation, will easily lend itself to enslave the other. Such is the history, and such will ever be the fate of man. In this view, then, above all others, is that possession most precious. When it is in our hands, we need no standing army. We can turn our whole attention to naval defence, which gives complete security, both at home and abroad. When we have twenty ships of the line at sea (and there is no good reason why we should not have them), we shall be respected by all Europe. The sense of security resulting from such force, must give a new spring to industry and increase the stock of national wealth. The expense, compared with the benefit, is moderate, nay, trifling. And let me here say one word as to national expense. Sir, whatever sums are necessary to secure the national independence, must be paid. They will not amount to one half of what it must cost us to be subdued. If we will not pay to be defended, we must pay for being conquered. There is no medium, and but the single alternative. In the proper expenditure for defence, therefore, is true economy; and every pitiful saving inconsistent with that object, is the worst, the most profligate profusion.

Having now considered, in its various relations, the importance of these provinces, the way is open to estimate our chance of obtaining them by negotiation. Let me ask on what ground you mean to treat. Do you expect to persuade? Do you hope to intimidate? If to persuade, what are your means of persuasion? Every gentleman admits the importance of this country. Think you the first consul, whose capacious mind embraces the globe, is alone ignorant of its value? Is he a child whom you may win by a rattle to comply with your wishes? Will you, like a nurse, sing to him a lullaby? If you have no hope from fondling attentions and soothing sounds, what have you to offer in exchange? Have you any thing to give which he will take? He wants power: you have no power. He wants dominion: you have no dominion; at least none that you can grant. He wants influence in Europe. And have you any influence in Europe? What, in the name of Heaven, are the means by which you would render this negotiation successful? Is it by some secret spell? Have you any magic power? Will you draw a circle, and conjure up devils to assist you? Or do you rely on the charms of those beautiful girls with whom, the gentleman near me says, the French grenadiers are to incorporate? If so, why do you not send an embassy of women? Gentlemen talk of the principles of our government, as if they could obtain for us the desired boon. But what will these princi-

ples avail? When you inquire as to the force of France, Austria, or Russia, do you ask whether they have a *habeas corpus* act, or a trial by jury? Do you estimate their power, discuss their interior police? No. The question is, How many battalions have they? What train of artillery can they bring into the field? How many ships can they send to sea? These are the important circumstances which command respect and facilitate negotiation. Can you display these powerful motives? Alas! Alas! To all these questions you answer by one poor word—confidence—confidence—confidence—yea, verily, we have confidence. We have faith and hope; ay, and we have charity too. Well—go to market with these Christian virtues, and what will you get for them? Just nothing. Yet in the face of reason and experience you have confidence; but in whom? Why, in our worthy president. But he cannot make the treaty alone. There must be two parties to a bargain. I ask if you have confidence also in the first consul. But whither, in the name of Heaven, does this confidence lead, and to what does it tend? The time is precious. We waste, and we have already wasted, moments which will never return. You have already tried negotiation. I say, you have tried it, because I know you have a minister in France, and I am sure the first magistrate of our country cannot have been so negligent, as not to pay attention to a subject which is confessedly of such magnitude. You have, then, negotiated; and with what success? Why, instead of defeating the cession, you have closed the river. Instead of obtaining any advantage by a new treaty, you have lost the benefit of an old one. Such are the results of your negotiation in Europe. In this country, you have negotiated to get back the privilege you are robbed of; and what follows? A prohibition to touch their shores. Instead of restoring the rights of treaty, they cut you off from the rights of humanity. Such is your splendid success from negotiation; and yet gentlemen tell us we must continue to negotiate. The honorable member from Kentucky says, that great lengths are gone in inquiring into, and rectifying the irregular procedure. He tells us, a minister is just appointed, and it would, therefore, be inconsistent to fight just now; that, moreover, it would degrade the president's authority, and defeat his measures. The gentleman from Georgia says, we have no right to go to war till there shall be a refusal on the part of Spain; and my honorable colleague assures us, that if our wrongs are redressed by negotiation, we can have no complaint. As to the lengths which are gone, it is for those gentlemen to appreciate their value, who know what they are. I profess my ignorance, and, judging by effects, must withhold my confidence. If we must wait for a pointed refusal, before we do ourselves right, I venture to predict

a delay fatal to the peace of this country. But, sir, what is it we are to ask, the refusal of which will justify war? Is it (as my honorable colleague supposes) a mere restitution of a privilege wrongfully taken away? Sir, I answer in the words of the resolutions moved by my friend: "It does not consist with the dignity of this country to hold a right so important by a tenure so uncertain." But the honorable member from Maryland has told us, that we need not cross the Atlantic to seek for precedents; that we have enough on our own archives; and he has had the goodness to mention our humble petitions presented to the king of Great Britain in 1775. We sent, says he, petition after petition. I am sure that honorable member has no wish that a minister should be sent to bear our humble petition to the footstool of the first consul's throne. But, sir, whether we treat or pray, it will end as it did in 1775, by war, unless we are determined to give up that independence which we then fought to establish. Let us consider, a moment, the natural course of this negotiation. It is the interest of France to foster in us a hope from treaty, until she has put herself in a condition to frustrate all other hope. There can be no question, therefore, that she has avoided, and will avoid, a direct refusal. And as long as we are content to accept of smooth speeches, general assurances, vague assertions, and loose evasions, we shall have no want of that court currency. But why, it may be said, has she not already taken possession? Because her original plans have been greatly deranged. St. Domingo presented obstacles unexpected, and that enterprise must not be abandoned; for though the island may not in itself be of much consequence—though it must be ruined before it can be conquered—yet conquered it must be, for the world must continue to believe, that the first consul cannot fail in what he has undertaken. Much of his power rests on that opinion; and it must, therefore, be maintained. But there are other incidents besides those of St. Domingo, which have had the same tendency. There followed, on the general peace, a serious discussion of the German indemnities; then the affairs of Italy; lately of Switzerland; and during the whole momentous period, it was doubtful how far England would bear a continued invasion of the liberties of Europe. And it was evident, that, should the war recommence with England, the force sent to this country would be totally lost. It was important, therefore, to gain time; and for that very reason, we should have insisted on an immediate decision. Such, then, is the state of this treaty so fondly desired—a treaty by which we are to ask much and offer nothing—a negotiation in which we have no means to persuade. Have we any to intimidate? Where is your public force? You have none; and seem resolved not to have or use any. My

honorable colleague tells us, that war will increase our debt one hundred millions, and that our people are not fond of taxes. He says we are trying a new experiment to pay our debts in a given period, which war would derange. It would injure, moreover, our pacific character, and might draw down the jealousy of all nations who have colonies. He believes that three fourths of our people are opposed to war; but yet he thinks that nine months hence we shall be in a better condition. What is the effect of this language? Is it not to convince the adverse party that he has nothing to fear from a refusal? As to this experiment for the payment of our debts, whether it has the merit of novelty, I shall not inquire; but I am bold to assert, that the merit, be it what it may, is due to one of my worthy friends, who formerly administered our finances. The same plan, also, has been adopted by another great statesman (Mr. Pitt), who has for many years past provided regularly a fund to liquidate, in a given period, each debt which his nation has incurred. But does England trust her safety to the protection of her sinking fund? No. She has fifty thousand seamen employed, and a hundred thousand soldiers. These form the shield of her defence. A gentleman near me has told us, that, in case of war, our mercantile capital is exposed in every part of the world. To this I answer, first, that the same objection will apply with equal weight upon any and every occasion. But further, I say, the argument is directly and completely against him. How does it stand? He admits that, if negotiation fails, he will draw the sword. He goes further, and says he will throw away the scabbard. Now, sir, it is clear that if we operate at once, notice may be given to our merchants. Advices may be sent in season to every sea. And here let me say, that it is a duty of the government to apprize both our insurers and shippers of their dangerous situation. It is unwise, as well as unjust, to lull them into a fatal security. But suppose the treaty shall fail,—and remember that the success or failure depends on Bonaparte,—he will weigh the present declarations, and act accordingly. He will commence a war on your commerce long before you know that war exists. I say, therefore, the argument is directly against the gentleman who used it. And here let me say one word on the comparative merits of the resolutions on your table. Those moved by my honorable friend give the president command not only of the militia, but of the naval and military force. They place money at his disposal, and what is most important, they put it in his power to use these efficient means. The resolutions moved as an amendment, authorize, indeed, a call for a greater number of militia; but, when called, they can do nothing but consume their rations. There is no power to bring them into action,

and of course the expense is useless, even for the purpose of influence.

Having endeavored to show, that we have no hope from treaty, it only remains to consider the natural effect of taking an immediate possession. Against this measure it has been said, that war, instead of giving relief, will absolutely shut up the Mississippi; that a single seventy-four in the mouth of that river would stop it effectually. I believe, sir, it would not only stop, but turn it; for a seventy-four would run aground and obstruct the channel. But what is the amount of these observations? The gentlemen all agree, that if they cannot obtain their object without war, they will fight for it. The mischief they deprecate must therefore arrive, unless there be a well-grounded hope from treaty; and the only difference is, that they are willing to take a longer term of sufferance, because they have a stronger expectation of relief without the exertion of force. I have no such expectation. I shall, therefore, proceed to consider what will follow, if we take possession without a previous alliance with Britain, or with such an alliance. I have heard it urged in conversation, that such alliance should first be made, and, therefore, I think it proper to take up the subject in debate. I cannot, however, but remark on the different language now held from that which we heard a year ago. Then it was the fashion to say, we had nothing to do with other nations. And when a man of plain sense observed, that this disposition was of little avail, because other nations would have something to do with us; and when the particular danger we now see was pointed out; O! then, to be sure, there was nothing to apprehend from our dear sister republic! I censure no man for adopting other and wiser principles. I have no question, but that as gentlemen proceed in the business of government, they will see the folly of many other fanciful notions; but I must entreat them not to fly from one extreme to the other. I hesitate not to give my opinion, that we ought to take possession without consulting Great Britain. And having done so, let us declare to France, that we mean to live with her in perfect amity. Let us offer every assistance in our power to conquer and preserve St. Domingo. Let us show her, that we have done an act of mere defence. Let us prove our pacific disposition by declaring, that we are under the tie of no obligation to her rival. To Spain let us hold a similar language. Let us point out her present danger, and demonstrate the utility of our possession. To both let us offer to relinquish our claims for spoliations on our commerce, and pay our own merchants. We can well afford to purchase with that price, a price paid to ourselves. Finally, if our representations do not produce the desired effect, let us tell them that we will ally our-

selves to England, and aid in the conquest of all their American dominions. Sir, this language will be listened to. Rely on it, that, under such circumstances, neither France nor Spain dare send hither a single regiment or a single ship. The existence of the British naval force will alone produce all the effect you could ask from its operation. But what are we to hope from a delay until an alliance shall be made? What will be the stipulations of the treaty of alliance? These may be more or less onerous or pernicious. Certainly the British minister will not hazard the fate of his nation without the hope of some correspondent advantage. One stipulation is certain. We must agree to continue the war until a peace can be obtained by common consent; and this is precisely the stipulation which we ought not to make, if it can be avoided; because we shall then be no longer masters of our exterior relations. To this it may be objected, that we cannot expect aid from Britain without a previous treaty. I ask what reliance you have for aid with treaty. The answer is, that it will be her interest. And, sir, it is her interest to give that aid without treaty.

I have now gone through this tedious discussion. I have trespassed on your patience more than I wished, although, from the lateness of the hour, much has been omitted of what I ought to have said. I have endeavored to show, that, under the existing circumstances, we are now actually at war, and have no choice but manly resistance or vile submission; that the possession of this country by France is dangerous to other nations, but fatal to us; that it forms a natural and necessary part of our empire; that, to use the strong language of the gentleman near me, it is joined to us by the hand of the Almighty, and that we have no hope of obtaining it by treaty. If, indeed, there be any such hope, it must be by adopting the resolutions offered by my honorable friend. Sir, I wish for peace; I wish the negotiation may succeed, and therefore I strongly urge you to adopt these resolutions. But though you should adopt them, they alone will not insure success. I have no hesitation in saying, that you ought to have taken possession of New Orleans and the Floridas the instant your treaty was violated. You ought to do it now. Your rights are invaded: confidence in negotiation is vain: there is, therefore, no alternative but force. You are exposed to imminent present danger: you have the prospect of great future advantage: you are justified by the clearest principles of right: you are urged by the strongest motives of policy: you are commanded by every sentiment of national dignity. Look at the conduct of America in her infant years. When there was no actual invasion of right, but only a claim to invade, she resisted the claim; she spurned the insult. Did we then hesitate? Did we then wait for foreign

alliance? No—animated with the spirit, warmed with the soul of freedom, we threw our oaths of allegiance in the face of our sovereign, and committed our fortunes and our fate to the God of battles. We then were subjects. We had not then attained to the dignity of an independent republic. We then had no rank among the nations of the earth. But we had the spirit which deserved that elevated station. And now that we have gained it, shall we fall from our honor?

Sir, I repeat to you that I wish for peace; real, lasting, honorable peace. To obtain and secure this blessing, let us, by a bold and decisive conduct, convince the powers of Europe that we are determined to defend our rights; that we will not submit to insult; that we will not bear degradation. This is the conduct which becomes a generous people. This conduct will command the respect of the world. Nay, sir, it may rouse all Europe to a proper sense of their situation. They see, that the balance of power, on which their liberties depend, is, if not destroyed, in extreme danger. They know that the dominion of France has been extended by the sword over millions who groan in the servitude of their new masters. These unwilling subjects are ripe for revolt. The empire of the Gauls is not, like that of Rome, secured by political institutions. It may yet be broken. But whatever may be the conduct of others, let us act as becomes ourselves. I cannot believe, with my honorable colleague, that three fourths of America are opposed to vigorous measures. I cannot believe that they will meanly refuse to pay the sums needful to vindicate their honor and support their independence. Sir, this is a libel on the people of America. They will disdain submission to the proudest sovereign on earth. They have not lost the spirit of '76. But, sir, if they are so base as to barter their rights for gold—if they are so vile that they will not defend their honor—they are unworthy of the rank they enjoy, and it is no matter how soon they are parcelled out among better masters.

My honorable friend from Pennsylvania, in opening this debate, pledged himself and his friends to support the executive government if they would adopt a manly conduct. I have no hesitation to renew that pledge. Act as becomes America, and all America will be united in your support. What is our conduct? Do we endeavor to fetter and trammel the executive authority? Do we oppose obstacles? Do we raise difficulties? No. We are willing to commit into the hands of the chief magistrate the treasure, the power and the energies of the country. We ask for ourselves nothing. We expect nothing. All we ask is for our country. And although we do not believe in the success of

treaty, yet the resolutions we move, and the language we hold, are calculated to promote it.

I have now performed, to the best of my power, the great duty which I owed to my country. I have given that advice which in my soul I believe to be the best. But I have little hope that it will be adopted. I fear that, by feeble councils, we shall be exposed to a long and bloody war. This fear is, perhaps, ill founded; and, if so, I shall thank God that I was mistaken. I know that, in the order of his providence, the wisest ends frequently result from the most foolish measures. It is our duty to submit ourselves to his high dispensations. I know that war, with all its misery, is not wholly without advantage. It calls forth the energies of character; it favors the manly virtues; it gives elevation to sentiment; it produces national union, generates patriotic love, and infuses a just sense of national honor. If, then, we are doomed to war, let us meet it as we ought; and when the hour of trial comes, let it find us a band of brothers.

Sir, I have done, and I pray to Almighty God that this day's debate may eventuate in the prosperity, the freedom, the peace, the power and the glory of our country.

SPEECH OF JOHN RANDOLPH,

MARCH 5, 1806,

IN COMMITTEE OF THE WHOLE HOUSE OF REPRESENTATIVES,

ON

MR. GREGG'S RESOLUTION TO PROHIBIT THE IMPORTATION OF BRITISH GOODS INTO THE UNITED STATES.

I am extremely afraid, sir, that so far as it may depend on my acquaintance with details connected with the subject, I have very little right to address you, for in truth I have not yet seen the documents from the treasury, which were called for some time ago, to direct the judgment of this house, in the decision of the question now before you; and, indeed, after what I have this day heard, I no longer require that document or any other document —indeed I do not know that I ever should have required it—to vote on the resolution of the gentleman from Pennsylvania. If I had entertained any doubts, they would have been removed by the style in which the friends of the resolution have this morning discussed it. I am perfectly aware, that on entering upon this subject, we go into it manacled—*handcuffed* and *tongue-tied.* Gentlemen know that our lips are sealed, on subjects of momentous foreign relations, which are indissolubly linked with the present question, and which would serve to throw a great light upon it, in every respect relevant to it. I will, however, endeavor to hobble over the subject, as well as my fettered limbs and palsied tongue will enable me to do it. I am not surprised to hear this resolution discussed by its friends as a war measure. They say (it is true) that it is not a war measure; but they defend it on principles which would justify none but war measures, and seem pleased with the idea that it may prove the forerunner of war If war is necessary—if we have reached this point—let us have war. But while I have life, I will never consent to these incipient war measures, which, in their commencement, breathe nothing but peace, though they plunge us at last into war. It has been

well observed by the gentleman from Pennsylvania behind me (Mr. J. Clay), that the situation of this nation, in 1793, was in every respect different from that in which it finds itself in 1806. Let me ask, too, if the situation of England is not since materially changed. Gentlemen, who, it would appear from their language, have not got beyond the hornbook of politics, talk of our ability to cope with the British navy, and tell us of the war of our revolution. What was the situation of Great Britain then? She was then contending for the empire of the British channel, barely able to maintain a doubtful equality with her enemies, over whom she never gained the superiority until Rodney's victory of the 12th of April. What is her present situation? The combined fleets of France, Spain, and Holland are dissipated; they no longer exist. I am not surprised to hear men advocate these wild opinions, to see them goaded on by a spirit of mercantile avarice, straining their feeble strength to excite the nation to war, when they have reached this stage of infatuation that we are an overmatch for Great Britain on the ocean. It is mere waste of time to reason with such persons. They do not deserve any thing like serious refutation. The proper arguments for such statesmen are a straight waistcoat, a dark room, water gruel, and depletion.

It has always appeared to me that there are three points to be considered, and maturely considered, before we can be prepared to vote for the resolution of the gentleman from Pennsylvania. *First.* Our ability to contend with Great Britain for the question in dispute. *Secondly.* The policy of such a contest; and *Thirdly,* in case both of these shall be settled affirmatively, the manner in which we can, with the greatest effect, react upon and annoy our adversary.

Now the gentleman from Massachusetts (Mr. Crowninshield) has settled, at a single sweep—to use a favorite expression of late, —not only that we are capable of contending with Great Britain on the ocean, but that we are actually her superior. Whence does the gentleman deduce this inference? Because, truly, at that time when Great Britain was *not* mistress of the ocean, when a North was her prime minister, and a Sandwich the first lord of her admiralty, when she was governed by a counting-house administration, privateers of this country trespassed on her commerce. So, too, did the cruisers of Dunkirk. At that day Suffrein held the mastery of the Indian seas. But what is the case now? Do gentlemen remember the capture of Cornwallis on land, because De Grasse maintained the dominion of the ocean? To my mind no position is more clear, than if we go to war with Great Britain, Charleston and Boston, the Chesapeake and the Hudson, will be invested by British squadrons. Will you call on the count De Grasse to relieve them, or shall we apply to admiral Gravina, or

admiral Villeneuve to raise the blockade? But you have not only a prospect of gathering glory, and what seems to the gentleman from Massachusetts much dearer, *profit*, by privateering, but you will be able to make a conquest of Canada and Nova Scotia. Indeed? Then, sir, we shall catch a Tartar. I confess, however, I have no desire to see the senators and representatives of the Canadian French, or of the tories and refugees of Nova Scotia, sitting on this floor, or that of the other house; to see them becoming members of the union, and participating equally in our political rights. And on what other principle would the gentleman from Massachusetts be for incorporating these provinces with us; or on what other principle could it be done, under the constitution? If the gentleman has no other bounty to offer us for going to war, than the incorporation of Canada and Nova Scotia with the United States, I am for remaining at peace.

What is the question in dispute? The carrying trade. What part of it? The fair, the honest, and the useful trade, that is engaged in carrying our own productions to foreign markets, and bringing back their productions in exchange? No, sir;—it is that carrying trade which covers enemy's property, and carries the coffee, the sugar, and other West India products, to the mother country. No, sir; if this great agricultural nation is to be governed by Salem and Boston, by New York and Philadelphia, and Baltimore and Norfolk and Charleston, let gentlemen come out and say so; and let a committee of public safety be appointed from those towns to carry on the government. I, for one, will not mortgage my property and my liberty to carry on this trade. The nation said so seven years ago—I said so then, and I say so now. It is not for the honest carrying trade of America, but for this mushroom, this fungus of war—for a trade which, as soon as the nations of Europe are at peace, will no longer exist; it is for this that the spirit of avaricious traffic would plunge us into war. I am forcibly struck on this occasion by the recollection of a remark made by one of the ablest (if not the honestest) ministers that England ever produced;—I mean sir Robert Walpole, who said that the country gentlemen (poor, weak souls!) came up every year to be sheared—that they lay mute and patient whilst their fleeces were taking off—but if he touched a single bristle of the commercial interest, the whole sty was in an uproar. It was indeed shearing the hog—"great cry and little wool."

But we are asked, Are we willing to bend the neck to England; to submit to her outrages? No, sir; I answer that it will be time enough for us to tell gentlemen what we will do to avenge the violation of our flag on the ocean, when they shall have told us what they have done, in resentment of the violation of the actual territory of the United States by Spain; the true territory of the

United States, not your new-fangled country over the Mississippi, but the good old United States ; part of Georgia, of the old thirteen states, where citizens have been taken, not from our ships, but from our actual territory. When gentlemen have taken the padlock from our mouths, I shall be ready to tell them what I will do relative to our dispute with Britain, on the law of nations, on contraband and such stuff.

I have another objection to this course of proceeding. Great Britain, when she sees it, will say, the American people have great cause of dissatisfaction with Spain. She will see by the documents furnished by the president that Spain has *outraged our territory, pirated upon our commerce, and imprisoned our citizens*; and she will inquire what we have done. It is true she will receive no answer; but she must know what we have not done. She will see that we have not repelled these outrages, nor made any addition to our army or navy; nor even classed the militia. No, sir, not one of your militia generals in politics (looking at general Varnum) has marshalled a single brigade.

Although I have said it would be time enough to answer the question which gentlemen have put to me, when they shall have answered mine, yet as I do not like long prorogations, I will give them an answer now. I will never consent to go to war for that which I cannot protect. I deem it no sacrifice of dignity to say to the leviathan of the deep,—"We are unable to contend with you in your own element; but if you come within our actual limits, we will shed our last drop of blood in their defence." In such an event I would *feel*, not *reason*, and obey an impulse which never has—which never can—deceive me.

France is at war with England—suppose her power on the continent of Europe no greater than it is on the ocean. How would she make her enemy feel it? There would be a perfect non-conductor between them. So with the United States and England:—she scarcely presents to us a vulnerable point. Her commerce is now carried on for the most part in fleets; when in single ships, they are stout and well armed—very different from the state of her trade during the American war, when her merchantmen became the prey of paltry privateers. Great Britain has been too long at war with the three most powerful maritime nations of Europe, not to have learned how to protect her trade. She can afford convoy to it all; she has eight hundred ships in commission; the navies of her enemies are annihilated. Thus this war has presented the new and curious political spectacle of a regular annual increase (and to an immense amount) of her imports and exports, and tonnage and revenue, and all the insignia of accumulating wealth, whilst in every former war, without exception, these have suffered a greater or less diminution. And wherefore?

Because she has driven France, Spain, and Holland from the ocean. Their marine is no more. I verily believe that ten English ships of the line would not decline a meeting with the combined fleets of those nations. I forewarn the gentleman from Massachusetts, and his constituents of Salem, that all their golden hopes are vain. I forewarn them of the exposure of their trade beyond the Cape of Good Hope (or now doubling it) to capture and confiscation—of their unprotected seaport towns, exposed to contribution or bombardment. Are we to be legislated into a war by a set of men who, in six weeks after its commencement, may be compelled to take refuge with us up in the country? And for what? a mere fungus—a mushroom production of war in Europe, which will disappear with the first return of peace—an unfair trade. For is there a man so credulous as to believe that we possess a capital not only equal to what may be called our own proper trade, but large enough also to transmit to the respective parent states the vast and wealthy products of the French, Spanish and Dutch colonies? 'Tis beyond the belief of any rational being. But this is not my only objection to entering upon this naval warfare. I am averse to a naval war with any nation whatever. I was opposed to the naval war of the last administration, and I am as ready to oppose a naval war of the present administration, should they meditate such a measure. What! shall this great mammoth of the American forest leave his native element, and plunge into the water in a mad contest with the shark? Let him beware that his proboscis is not bitten off in the engagement. Let him stay on shore, and not be excited, by the muscles and periwinkles on the strand, or political bears in a boat, to venture on the perils of the deep. Gentlemen say, Will you not protect your violated rights? and I say, Why take to water, where you can neither fight nor swim? Look at France; see her vessels stealing from port to port on her coast, and remember that she is the first military power of the earth, and as a naval people second only to England. Take away the British navy, and France to-morrow is the tyrant of the ocean.

This brings me to the second point. How far is it politic in the United States to throw their weight into the scale of France at this moment;—from whatever motive, to aid the views of her gigantic ambition—to make her mistress of the sea and land—to jeopard the liberties of mankind? Sir, you may help to crush Great Britain, you may assist in breaking down her naval dominion; but you cannot succeed to it. The iron sceptre of the ocean will pass into his hands who wears the iron crown of the land. You may then expect a new code of maritime law. Where will you look for redress? I can tell the gentleman from Massachusetts that there is nothing in his rule of three that will save us, even

although he should outdo himself and exceed the financial ingenuity which he so memorably displayed on a recent occasion.* No, sir.—Let the battle of Actium be once fought, and the whole line of sea-coast will be at the mercy of the conqueror. The Atlantic, deep and wide as it is, will prove just as good a barrier against his ambition, if directed against you, as the Mediterranean to the power of the Cæsars. Do I mean (when I say so) to crouch to the invader? No. I will meet him at the water's edge, and fight every inch of ground from thence to the mountains, from the mountains to the Mississippi. But after tamely submitting to an outrage on your domicil, will you bully and look big at an insult on your flag three thousand miles off?

But, sir, I have a yet more cogent reason against going to war, for the honor of the flag in the narrow seas, or any other maritime punctilio. It springs from my attachment to the principles of the government under which I live. I declare in the face of day that this government was not instituted for the purposes of offensive war. No. It was framed (to use its own language) *for the common defence* and the general welfare, which are inconsistent with offensive war. I call that offensive war, which goes out of jurisdiction and limits for the attainment or protection of objects not within those limits and that jurisdiction. As in 1798 I was opposed to this species of warfare, because I believed it would raze the constitution to the very foundation, so in 1806 am I opposed to it, and on the same grounds. No sooner do you put the constitution to this use, to a test which it is by no means calculated to endure, than its incompetency to such purposes becomes manifest and apparent to all. I fear if you go into a foreign war for a circuitous, unfair carrying trade, you will come out without your constitution. Have not you contractors enough yet in this house? Or do you want to be overrun and devoured by commissaries and all the vermin of contract? I fear, sir, that what are called the energy men will rise up again—men who will burn the parchment. We shall be told that our government is too free—or, as they would say, *weak* and *inefficient*. Much virtue, sir, in terms. That we must give the president power to call forth the resources of the nation—that is, to filch the last shilling from our pockets, to drain the last drop of blood from our veins. I am against giving this power to any man, be he who he may. The American people must either withhold this power, or resign their liberties. There is

* In a debate on a bill fixing the prices which the commissioners of the sinking fund should not exceed, in their purchases of public debts, Mr. Crowninshield had asserted, that three per cent. were worth only half as much as the sixes; in other words, that the value of the stocks was in the ratio of their respective rates of interest, and not compounded of principal and interest.—Thus, if the 3 per cent. are at 60, the true value of the 6 per cent. would be 120, and of the 8 per cent. 160, according to this novel financial discovery.

no other alternative. Nothing but the most imperious necessity will justify such a grant. And is there a powerful enemy at our doors? You may begin with a first consul,—from that chrysalis state he soon becomes an emperor. You have your choice. It depends upon your election, whether you will be a free, happy and united people at home, or the light of your executive majesty shall beam across the Atlantic in one general blaze of the public liberty.

For my part, I never will go to war but in self-defence. I have no desire for conquests, no ambition to possess Nova Scotia. I hold the liberties of this people at a higher rate. Much more am I indisposed to war, when, among the first means for carrying it on, I see gentlemen propose the confiscation of debts due by government to individuals. Does a bona fide creditor know who holds his paper? Dare any honest man ask himself the question? 'Tis hard to say whether such principles are more detestably dishonest than they are weak and foolish. What, sir, will you go about with proposals for opening a loan in one hand, and a sponge for the national debt in the other? If, on a late occasion, you could not borrow at a less rate of interest than 8 per cent., when the government avowed that they would pay to the last shilling of the public ability, at what price do you expect to raise money with an avowal of these nefarious opinions? God help you! if these are your ways and means for carrying on war—if your finances are in the hands of such a chancellor of the exchequer. Because a man can take an observation and keep a log-book and a reckoning, can navigate a cockboat to the West Indies or the East, shall he aspire to navigate the great vessel of state?—to stand at the helm of public councils? *Ne sutor ultra crepidam.* What are you going to war for? For the carrying trade. Already you possess seven eighths of it. What is the object in dispute? The fair, honest trade that exchanges the product of our soil for foreign articles for home consumption? Not at all. You are called upon to sacrifice this necessary branch of your navigation and the great agricultural interest, whose handmaid it is,—to jeopard your best interest for a circuitous commerce, for the fraudulent protection of belligerent property under your neutral flag. Will you be goaded by the dreaming calculation of insatiate avarice to stake your all for the protection of this trade? I do not speak of the probable effects of war on the price of our produce. Severely as we must feel, we may scuffle through it. I speak of its reaction on the constitution. You may go to war for this excrescence of the carrying trade—and make peace at the expense of the constitution. Your executive will lord it over you, and you must make the best terms with the conqueror that you can. But the gentleman from Pennsylvania (Mr. Gregg) tells you that he is for acting in this,

as in all things, uninfluenced by the opinion of any minister whatever—foreign, or, I presume, domestic. On this point I am ready to meet the gentleman, am unwilling as he can be, to be dictated to by any minister at home or abroad. Is he willing to act on the same independent footing? I have before protested, and I again protest against secret, irresponsible, overruling influence. The first question I asked when I saw the gentleman's resolution was, "Is this a measure of the cabinet?" Not of an open, declared cabinet, but of an invisible, inscrutable, unconstitutional cabinet, without responsibility, unknown to the constitution. I speak of back-stairs influence—of men who bring messages to this house, which, although they do not appear on the journals, govern its decisions. Sir, the first question that I asked on the subject of British relations was, What is the opinion of the cabinet? What measures will they recommend to congress? (well knowing that whatever measures we might take, they must execute them, and therefore that we should have their opinion on the subject. (My answer was (and from a cabinet minister too), "*There is no cabinet.*" Subsequent circumstances, sir, have given me a personal knowledge of the fact. It needs no commentary.

But the gentleman has told you that we ought to go to war, if for nothing else, for the fur trade. Now, sir, the people on whose support he seems to calculate, follow (let me tell him) a better business, and let me add, that whilst men are happy at home reaping their own fields, the fruits of their labor and industry, there is little danger of their being induced to go sixteen or seventeen hundred miles in pursuit of beavers, raccoons or opossums—much less of going to war for the privilege. They are better employed where they are. This trade, sir, may be important to Britains, to nations who have exhausted every resource of industry at home, bowed down by taxation and wretchedness. Let them, in God's name, if they please, follow the fur trade. They may, for me, catch every beaver in North America. Yes, sir, our people have a better occupation—a safe, profitable, honorable employment. Whilst they should be engaged in distant regions in hunting the beaver, they dread but those, whose natural prey they are, should begin to hunt them, should pillage their property, and assassinate their constitution. Give up these wild schemes,—pay off your debt, and do not prate about its confiscation. Do not, I beseech you, expose at once your knavery and your folly. You have more lands than you know what to do with; you have lately paid fifteen millions for yet more. Go and work them—and cease to alarm the people with the cry of Wolf! until they become deaf to your voice, or at least laugh at you.

Mr. Chairman, if I felt less regard for what I deem the best interest of this nation, than for my own reputation, I should not on

this day have offered to address you, but would have waited to come out, bedecked with flowers and boquets of rhetoric, in a set speech. But, sir, I dreaded lest a tone might be given to the mind of the committee—they will pardon me, but I did fear, from all that I could see, or hear, that they might be prejudiced by its advocates (under pretence of protecting our commerce) in favor of this ridiculous and preposterous project,—I rose, sir, for one, to plead guilty—to declare in the face of day, that I will not go to war for this carrying trade. I will agree to pass for an idiot if this is not the public sentiment, and you will find it to your cost, begin the war when you will.

Gentlemen talk of 1793. They might as well go back to the Trojan war. What was your situation then? Then every heart beat high with sympathy for France, for *Republican France!* I am not prepared to say, with my friend from Pennsylvania, that we were all ready to draw our swords in her cause; but I affirm that we were prepared to go great lengths. I am not ashamed to pay this compliment to the hearts of the American people, even if at the expense of their understandings. It was a noble and generous sentiment, which nations, like individuals, are never the worse for having felt. They were, I repeat it, ready to make great sacrifices for France. And why ready? Because she was fighting the battles of the human race against the combined enemies of their liberty; because she was performing the part which Great Britain now in fact sustains, forming the only bulwark against universal dominion. Knock away her navy, and where are you? Under the naval despotism of France, unchecked and unqualified by any antagonizing military power, at best but a change of masters. The tyrant of the ocean, and the tyrant of the land, is one and the same, lord of all; and "who shall say him nay, or wherefore dost thou this thing?" Give to the tiger the properties of the shark, and there is no longer safety for the beasts of the forest or the fishes of the sea. Where was this high anti-Britannic spirit of the gentleman from Pennsylvania when his vote would have put an end to the British treaty, that pestilent source of evil to this country? and at a time, too, when it was not less the interest than the sentiment of this people to pull down Great Britain and exalt France. Then, when the gentleman might have acted with effect, he could not screw his courage to the sticking place. Then England was combined in what has proved a feeble, inefficient coalition, but which gave just cause of alarm to every friend of freedom. Now the liberties of the human race are threatened by a single power, more formidable than the coalesced world, to whose utmost ambition, vast as it is, the naval force of Great Britain forms the only obstacle.

I am perfectly sensible and ashamed of the trespass I am making

on the patience of the committee, but as I know not whether it will be in my power to trouble them again on this subject, I must beg leave to continue my crude and desultory observations. I am not ashamed to confess that they are so.

At the commencement of this session we received a printed message from the president of the United States, breathing a great deal of national honor and indignation at the outrages we had endured, particularly from Spain. She was specially named and pointed at; she had pirated upon your commerce, imprisoned your citizens, violated your actual territory, invaded the very limits solemnly established between the two nations by the treaty of San Lorenzo. Some of the state legislatures (among others the very state on which the gentleman from Pennsylvania relies for support) sent forward resolutions pledging their lives, their fortunes, and their sacred honors, in support of any measures you might take in vindication of your injured rights. Well, sir, what have you done? You have resolutions laid upon your table—gone to some expense of printing and stationery—mere pen, ink and paper, and that's all. Like true political quacks, you deal only in handbills and nostrums. Sir, I blush to see the record of our proceedings; they resemble nothing but the advertisement of patent medicines. Here you have, "the Worm-Destroying Lozenges;" there, "Church's Cough Drops," and, to crown the whole, "Sloan's Vegetable Specific," an infallible remedy for all nervous disorders and vertigoes of brain-sick politicians; each man earnestly adjuring you to give his medicine only a fair trial. If, indeed, these wonder-working nostrums could perform but one half of what they promise, there is little danger of our dying a political death at this time, at least. But, sir, in politics as in physic, the doctor is ofttimes the most dangerous disease; and this I take to be our case at present.

But, sir, why do I talk of Spain? there are no longer Pyrenees. There exists no such nation, no such being as a Spanish king or minister. It is a mere juggle played off for the benefit of those who put the mechanism into motion. You know, sir, that you have no differences with *Spain;* that she is the passive tool of a superior power, to whom at this moment you are crouching. Are your differences indeed with Spain? And where are you going to send your political panacea (resolutions and handbills excepted), your sole arcanum of government, your king-cure-all?—To Madrid? No—you are not such quacks as not to know where the shoe pinches—*to Paris.* You know at least where the disease lies, and there you apply your remedy. When the nation anxiously demands the result of your deliberation, you hang your head and blush to tell. *You are afraid to tell.* Your mouth is hermetically sealed. Your honor has received a wound which must not take air. Gentlemen dare not come forward and avow their work,

much less defend it in the presence of the nation. Give them all they ask, that Spain exists, and what then? After shrinking from the Spanish jackall, do you presume to bully the British lion? But here the secret comes out. Britain is your rival in trade, and governed, as you are, by counting-house politicians, you would sacrifice the paramount interests of the country, to wound that rival. For Spain and France you are carriers—and from good customers every indignity is to be endured. And what is the nature of this trade? Is it that carrying-trade which sends abroad the flour, tobacco, cotton, beef, pork, fish and lumber of this country, and brings back in return foreign articles necessary for our existence or comfort? No, sir; 'tis a trade carried on, the Lord knows where, or by whom; now doubling Cape Horn, now the Cape of Good Hope. I do not say that there is no profit in it—for it would not then be pursued—but 'tis a trade that tends to assimilate our manners and government to those of the most corrupt countries of Europe—yes, sir, and when a question of great national magnitude presents itself to you, causes those who now prate about national honor and spirit, to pocket any insult, to consider it as a mere matter of debit and credit, a business of profit and loss, and nothing else.

The first thing that struck my mind when this resolution was laid on the table was, *Unde derivatur?* a question often put to us at school, Whence comes it? Is this only the putative father of the bantling he is taxed to maintain, or indeed the actual parent, the real progenitor of the child? or is it the production of the cabinet? But I knew you had no cabinet, no system. I had seen despatches relating to vital measures, laid before you the day after your final decision on those measures,—four weeks after they were received—not only their contents, but their very existence, all that time unsuspected and unknown to men whom the people fondly believe assist with their wisdom and experience at every important deliberation of government. Do you believe that this system, or rather this *no system*, will do? I am free to answer it will not. It cannot last. I am not so afraid of the fair, open, constitutional, responsible influence of government; but I shrink intuitively from this left-handed, invisible, irresponsible influence, which defies the touch, but pervades and decides every thing. Let the executive come forward to the legislature; let us see whilst we feel it. If we cannot rely on its wisdom, is it any disparagement to the gentleman from Pennsylvania to say that I cannot rely upon him? No, sir; he has mistaken his talent. He is not the Palinurus, on whose skill the nation, at this trying moment, can repose their confidence. I will have nothing to do with his paper—much less will I endorse it and make myself responsible for its goodness; I will not put my name to it. I assert that there is no cabinet nor

system, no plan. That which I believe in one place, I shall never hesitate to say in another. This is no time, no place for mincing our words. The people have a right to know, they shall know the state of their affairs, at least as far as I am at liberty to communicate them. I speak from personal knowledge. Ten days ago there had been no consultation, there existed no opinion in your executive department, at least none that was avowed; on the contrary, there was an express disavowal of any opinion whatsoever on the great subject before you, and I have good reason for saying that none has been formed since. Some time ago a book was laid on our table, which, like some other bantlings, did not bear the name of its father. Here I was taught to expect a solution of all doubts, an end to all our difficulties. If, sir, I were the foe, as I trust I am the friend to this nation, I would exclaim, "O that mine enemy would write a book." At the very outset, in the very first page, I believe, there is a complete abandonment of the principle in dispute. Has any gentleman got the work? [It was handed by one of the members.] The first position taken is the broad principle of the unlimited freedom of trade between nations at peace, which the writer endeavors to extend to the trade between a neutral and belligerent power, accompanied, however, by this acknowledgment—"But inasmuch as the trade of a neutral with a belligerent nation might, in certain special cases, *affect the safety of its antagonist, usage founded on the principle of* NECESSITY, has admitted a few exceptions to the general rule." Whence comes the doctrine of contraband, blockade, and enemy's property? Now, sir, for what does that celebrated pamphlet, "War in Disguise," which is said to have been written under the eye of the British prime minister, contend, but this "principle of necessity?" And this ground is abandoned by this pamphleteer at the very threshold of the discussion. But, as if this were not enough, he goes on to assign as a reason for not referring to the authority of the ancients, that "the great *change* which has taken place in the state of manners, in the maxims of war, *and in the course of commerce*, make it *pretty* certain" (what degree of certainty is this?) "that either nothing will be found relating to the question, or *nothing sufficiently applicable to deserve attention in deciding it.*" Here, sir, as an apology of the writer for not disclosing the whole extent of his learning (which might have overwhelmed the reader), is the admission that a change of circumstances ("in the course of commerce") has made (and therefore will now justify) a total change of the law of nations. What more could the most inveterate advocate of English usurpation demand? What else can they require to establish all, and even more than they contend for? Sir, there is a class of men—we know them very well—who, if you only permit them to lay the foundation,

will build you up step by step, and brick by brick, very neat and showy, if not tenable arguments. To detect them, 'tis only necessary to watch their premises, where you will often find the point at issue totally surrendered, as in this case it is. Again, is the *mare liberum* any where asserted in this book? that free ships make free goods?—No, sir; the right of search is acknowledged; that enemy's property is lawful prize is sealed and delivered. And after abandoning these principles, what becomes of the doctrine that a mere shifting of the goods from one ship to another, the touching at another port, changes the property? Sir, give up this principle, and there is an end of the question.

SPEECH OF JOSIAH QUINCY,

IN THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES,
NOVEMBER 28, 1808,

On the following Resolution, "*Resolved*, that the United States cannot, without a sacrifice of their rights, honor, and independence, submit to the late edicts of Great Britain and France."

Mr. Chairman,

I am not, in general, a friend to abstract legislation. Ostentatious declaration of general principles is so often the resort of weakness and of ignorance; it is so frequently the subterfuge of men who are willing to amuse, or who mean to delude the people, that it is with great reluctance I yield to such a course my sanction. If, however, a formal annunciation of a determination to perform one of the most common and undeniable of national duties be deemed, by a majority of this house, essential to their character, or to the attainment of public confidence, I am willing to admit, that the one now offered is as unexceptionable as any it would be likely to propose.

In this view, however, I lay wholly out of sight the report of the committee, by which it is accompanied and introduced. The course advocated in that report is, in my opinion, loathsome; the spirit it breathes disgraceful; the temper it is likely to inspire, neither calculated to regain the rights we have lost, nor to preserve those which remain to us. It is an established maxim, that, in adopting a resolution offered by a committee in this house, no member is pledged to support the reasoning, or made sponsor for the facts which they have seen fit to insert in it. I exercise, therefore, a common right, when I subscribe to the resolution, not on the principles of the committee, but on those which obviously result from its terms, and are the plain meaning of its expressions.

I agree to this resolution, because, in my apprehension, it offers a solemn pledge to this nation;—a pledge not to be mistaken, and not to be evaded, that the present system of public measures shall be totally abandoned. Adopt it, and there is an end of the policy of deserting our rights, under a pretence of maintaining them. Adopt it, and we no longer yield to the beck of haughty

belligerents the rights of navigating the ocean—that choice inheritance bequeathed to us by our fathers. Adopt it, and there is a termination of that base and abject submission, by which this country has for these eleven months been disgraced and brought to the brink of ruin.

That the natural import and necessary implication of the terms of this resolution are such as I have suggested, will be apparent from a very transient consideration. What do its terms necessarily include? They contain an assertion and a pledge. The assertion is, that the edicts of Great Britain and France are contrary to our rights, honor, and independence. The pledge is, that we will not submit to them.

Concerning the assertion contained in this resolution, I would say nothing, were it not that I fear that those who have so long been in the habit of looking at the orders and decrees of foreign powers, as the measure of the rights of our own citizens, and have been accustomed, in direct subserviency to them, of prohibiting commerce altogether, might apprehend that there was some lurking danger in such an assertion. They may be assured there can be nothing more harmless. Neither Great Britain nor France ever pretended that those edicts were consistent with American rights. On the contrary, both these nations ground those edicts on the principle of imperious necessity, which admits the injustice done, at the very instant of executing the act of oppression. No gentleman need have any difficulty in screwing his courage up to this assertion. Neither of the belligerents will contradict it. Mr. Turreau and Mr. Erskine will both of them countersign the declaration to-morrow.

With respect to the pledge, contained in this resolution, understood according to its true import, it is a glorious one. It opens new prospects. It promises a change in the disposition of this house. It is a solemn assurance to the nation, that it will no longer submit to these edicts. It remains for us, therefore, to consider what submission is, and what the pledge not to submit implies.

One man submits to the order, decree, or edict of another, when he does that thing which such order, decree, or edict commands; or when he omits to do that thing, which such order, decree, or edict prohibits. This, then, is submission. It is to do as we are bidden. It is to take the will of another as the measure of our rights. It is to yield to his power; to go where he directs, or to refrain from going where he forbids us.

If this be submission, then the pledge not to submit implies the reverse of all this. It is a solemn declaration, that we will not do that thing which such order, decree, or edict commands, or that we will do what it prohibits. This, then, is freedom. This is

honor. This is independence. It consists in taking the nature of things, and not the will of another, as the measure of our rights. What God and nature has offered us, we will enjoy in despite of the commands, regardless of the menaces of iniquitous power.

Let us apply these correct and undeniable principles to the edicts of Great Britain and France, and the consequent abandonment of the ocean by the American government. The decrees of France prohibit us from trading with Great Britain. The orders of Great Britain prohibit us from trading with France. And what do we? Why, in direct subserviency to the edicts of each, we prohibit our citizens from trading with either. We do more; as if unqualified submission was not humiliating enough, we descend to an act of supererogation in servility; we abandon trade altogether; we not only refrain from that particular trade which their respective edicts proscribe, but lest the ingenuity of our merchants should enable them to evade their operation, to make submission doubly sure, the American government virtually reënact the edicts of the belligerents, and abandon all the trade, which, notwithstanding the practical effects of their edicts, remain to us. The same conclusion will result if we consider our embargo in relation to the objects of this belligerent policy. France, by her edicts, would oppress Great Britain, by destroying her commerce and cutting off her supplies. All the continent of Europe, in the hand of Bonaparte, is made subservient to this policy. The embargo law of the United States, in its operation, is a union with this continental coalition against British commerce, at the very moment most auspicious to its success. Can any thing be more in direct subserviency to the views of the French emperor? If we consider the orders of Great Britain, the result will be the same. I proceed, at present, on the supposition of a perfect impartiality in our administration towards both belligerents, so far as relates to the embargo law. Great Britain had two objects in view in issuing her orders—First, to excite discontent in the people of the continent, by depriving them of their accustomed colonial supplies. Second, to secure to herself that commerce of which she deprived neutrals. Our embargo coöperates with the British views in both respects. By our dereliction of the ocean, the continent is much more deprived of the advantages of commerce, than it would be possible for the British navy to effect; and by removing our competition, all the commerce of the continent which can be forced, is wholly left to be reaped by Great Britain. The language of each sovereign is in direct conformity to these ideas. Napoleon tells the American minister virtually, that we are very good Americans; that, although he will not allow the property he has in his hands to escape him, nor desist from burning and capturing our vessels on every occasion, yet that he is, thus far, satisfied with our co-

operation. And what is the language of George the Third, when our minister presents to his consideration the embargo laws? Is it *Le roy s'avisera?* The king will reflect upon them. No, it is the pure language of royal approbation. *Le roy le veut.* The king wills it. Were you colonies, he could expect no more. His subjects as inevitably get that commerce which you abandon, as the water will certainly run into the only channel which remains after all the others are obstructed. In whatever point of view we consider these embargo laws in relation to those edicts and decrees, we shall find them coöperating with each belligerent in its policy. In this way, I grant, our conduct may be impartial; but what has become of our American right to navigate the ocean? It is abandoned in strict conformity to the decrees of both belligerents. This resolution declares, that we will no longer submit to such degrading humiliation. Little as I relish, I will take it as the harbinger of a new day; the pledge of a new system of measures.

Perhaps, here, in strictness, I ought to close my observations. But the report of the committee, contrary to what I deem the principle of the resolution, unquestionably recommends the continuance of the embargo laws. And such is the state of the nation, and in particular that portion of it, which in part I represent, under their oppression, that I cannot refrain from submitting some considerations on that subject.

When I enter on the subject of the embargo, I am struck with wonder at the very threshold. I know not with what words to express my astonishment. At the time I departed from Massachusetts, if there was an impression, which I thought universal, it was, that, at the commencement of this session, an end would be put to this measure. The opinion was not so much, that it would be terminated, as that it was then at an end. Sir, the prevailing sentiment, according to my apprehension, was stronger than this—even that the pressure was so great, that it could not possibly be endured; that it would soon be absolutely insupportable. And this opinion, as I then had reason to believe, was not confined to any one class, or description, or party; that even those who were friends of the existing administration, and unwilling to abandon it, were yet satisfied, that a sufficient trial had been given to this measure. With these impressions, I arrive in this city. I hear the incantations of the great enchanter. I feel his spell. I see the legislative machinery begin to move. The scene opens. And I am commanded to forget all my recollections, to disbelieve the evidence of my senses, to contradict what I have seen, and heard, and felt. I hear, that all this discontent is mere party clamor—electioneering artifice; that the people of New England are able and willing to endure this embargo for an indefinite, un-

limited period; some say for six months; some a year; some two years. The gentleman from North Carolina (Mr. Macon) told us, that he preferred three years of embargo to a war. And the gentleman from Virginia (Mr. Clopton) said expressly, that he hoped we should never allow our vessels to go upon the ocean again, until the orders and decrees of the belligerents were rescinded; in plain English, until France and Great Britain should, in their great condescension, permit. Good heavens! Mr. Chairman, are men mad? Is this house touched with that insanity, which is the never-failing precursor of the intention of Heaven to destroy? The people of New England, after eleven months' deprivation of the ocean, to be commanded still longer to abandon it, for an undefined period; to hold their unalienable rights at the tenure of the will of Britain or of Bonaparte! A people, commercial in all aspects, in all their relations, in all their hopes, in all their recollections of the past, in all their prospects of the future; a people, whose first love was the ocean, the choice of their childhood, the approbation of their manly years, the most precious inheritance of their fathers, in the midst of their success, in the moment of the most exquisite perception of commercial prosperity, to be commanded to abandon it, not for a time limited, but for a time unlimited; not until they can be prepared to defend themselves there (for that is not pretended), but until their rivals recede from it; not until their necessities require, but until foreign nations permit! I am lost in astonishment, Mr. Chairman. I have not words to express the matchless absurdity of this attempt. I have no tongue to express the swift and headlong destruction, which a blind perseverance in such a system must bring upon this nation.

But men from New England, representatives on this floor, equally with myself the constitutional guardians of her interests, differ from me in these opinions. My honorable colleague (Mr. Bacon) took occasion, in secret session, to deny that there did exist all that discontent and distress, which I had attempted, in an humble way, to describe. He told us he had travelled in Massachusetts, that the people were not thus dissatisfied, that the embargo had not produced any such tragical effects. Really, sir, my honorable colleague has travelled—all the way from Stockbridge to Hudson; from Berkshire to Boston; from inn to inn; from county court to county court; and doubtless he collected all that important information, which an acute intelligence never fails to retain on such occasions. He found tea, sugar, salt, West India rum and molasses dearer; beef, pork, butter and cheese cheaper. Reflection enabled him to arrive at this difficult result, that in this way the evil and the good of the embargo equalize one another. But has my honorable colleague travelled on the seaboard? Has he witnessed the state of our cities? Has he seen our ships rot-

ting at our wharves, our wharves deserted, our stores tenantless, our streets bereft of active business; industry forsaking her beloved haunts, and hope fled away from places where she had from earliest time been accustomed to make and to fulfil her most precious promises? Has he conversed with the merchant, and heard the tale of his embarrassments—his capital arrested in his hands, forbidden by your laws to resort to a market, with property four times sufficient to discharge all his engagements, necessitated to hang on the precarious mercy of moneyed institutions for that indulgence, which preserves him from stopping payment, the first step towards bankruptcy? Has he conversed with our mechanics? That mechanic, who, the day before this embargo passed, the very day that you took this bit, and rolled it like a sweet morsel under your tongue, had more business than he had hands, or time or thought to employ in it, now soliciting, at reduced prices, that employment which the rich, owing to the uncertainty in which your laws have involved their capital, cannot afford? I could heighten this picture. I could show you laboring poor in the almshouse, and willing industry dependent upon charity. But I confine myself to particulars, which have fallen under my own observation, and of which ten thousand suffering individuals on the seaboard of New England are living witnesses that here is nothing fictitious.

Mr. Chairman, other gentlemen must take their responsibilities; I shall take mine. This embargo must be repealed. You cannot enforce it for any important period of time longer. When I speak of your inability to enforce this law, let not gentlemen misunderstand me. I mean not to intimate insurrections or open defiances of them; although it is impossible to foresee in what acts that "oppression" will finally terminate, which, we are told, "makes wise men mad." I speak of an inability resulting from very different causes. The gentleman from North Carolina (Mr. Macon) exclaimed the other day in a strain of patriotic ardor, "What! shall not our laws be executed? Shall their authority be defied? I am for enforcing them at every hazard." I honor that gentleman's zeal; and I mean no deviation from that true respect I entertain for him, when I tell him, that, in this instance, "his zeal is not according to knowledge."

I ask this house, Is there no control to its authority? is there no limit to the power of this national legislature? I hope I shall offend no man, when I intimate that two limits exist;—nature and the constitution. Should this house undertake to declare, that this atmosphere should no longer surround us, that water should cease to flow, that gravity should not hereafter operate, that the needle should not vibrate to the pole, I do suppose, Mr. Chairman—sir, I mean no disrespect to the authority of this house; I

know the high notions some gentlemen entertain on this subject; —I do suppose—sir, I hope I shall not offend;—I think I may venture to affirm, that, such a law to the contrary notwithstanding, the air would continue to circulate, the Mississippi, the Hudson and the Potomac would roll their floods to the ocean, heavy bodies continue to descend, and the mysterious magnet hold on its course to its celestial cynosure.

Just as utterly absurd and contrary to nature is it, to attempt to prohibit the people of New England, for any considerable length of time, from the ocean. Commerce is not only associated with all the feelings, the habits, the interests and relations of that people, but the nature of our soil, and of our coasts, the state of our population and its mode of distribution over our territory, renders it indispensable. We have five hundred miles of sea-coast; all furnished with harbors, bays, creeks, rivers, inlets, basins, with every variety of invitation to the sea, with every species of facility to violate such laws as these. Our people are not scattered over an immense surface, at a solemn distance from each other, in lordly retirement, in the midst of extended plantations and intervening wastes: they are collected on the margin of the ocean, by the sides of rivers, at the heads of bays, looking into the water or on the surface of it for the incitement and the reward of their industry. Among a people thus situated, thus educated, thus numerous, laws, prohibiting them from the exercise of their natural rights, will have a binding effect not one moment longer than the public sentiment supports them. Gentlemen talk of twelve revenue cutters additional to enforce the embargo laws. Multiply the number by twelve, multiply it by a hundred, join all your ships of war, all your gun-boats, and all your militia, in despite of them all, such laws as these are of no avail when they become odious to public sentiment. Continue these laws any considerable time longer, and it is very doubtful, if you will have officers to execute, juries to convict, or purchasers to bid for your confiscations. Cases have begun to occur. Ask your revenue officers, and they will tell you that already at public sales in your cities, under these laws, the owner has bought his property at less than four *per cent.* upon the real value. Public opinion begins to look, with such a jealous and hateful eye, upon these laws, that even self-interest will not coöperate to enforce their penalties.

But where is our love of order—where our respect for the laws? Let legislators beware, lest by the very nature of their laws, they weaken that sentiment of respect for them, so important to be inspired, and so difficult to be reinstated when it has once been driven from the mind. Regulate not the multitude to their ruin. Disgust not men of virtue by the tendency of your laws, lest, when they cannot yield them the sanction of their ap-

probation, the enterprising and the necessitous find a principal check upon their fears of violating them removed. It is not enough for men in place to exclaim, "The worthless part of society." Words cannot alter the nature of things. You cannot identify the violator of such laws as these, in our part of the country, for any great length of time, with the common smuggler, nor bring the former down to the level of the latter. The reason is obvious. You bring the duties the citizen owes to society, into competition, not only with the strongest interests, but, which is more, with the most sacred private obligations. When you present to the choice of a citizen, bankruptcy, a total loss of the accumulated wealth of his whole life, or a violation of a positive law, restrictive of the exercise of the most common rights, it presents to him a most critical alternative. I will not say how sublime casuists may decide. But it is easy to foretell that nature will plead too strong in the bosom to make obedience long possible. I state no imaginary case. Thousands in New England see, in the continuance of this embargo and in obedience to it, irremediable ruin to themselves and families. But where is our patriotism? Sir, you call upon patriotism for sacrifices, to which it is unequal, and require its operation in a way, in which that passion cannot long subsist. Patriotism is a great comfort to men in the interior; to the farmer and the planter, who are denied a market by your laws, whose local situation is such, that they can neither sell their produce, nor scarcely give it away, and who are made to believe that their privations will ultimately redound to the benefit of the country. But on the sea-board, where men feel, not only their annual profit, but their whole capital perishing, where they know the utter inefficacy of your laws to coerce foreign nations, and their utter futility as a mean of saving our own property; to such laws, in such a situation, patriotism is, to say the least, a very inactive assistant. You cannot lay a man upon the rack, and crack his muscles by a slow torment, and call patriotism to soothe the sufferer.

But there is another obstacle to a long and effectual continuance of this law—the doubt, which hangs over its constitutionality. I know I shall be told, that the sanction of the judiciary has been added to this act of the legislature. Sir, I honor that tribunal. I revere the individual whose opinion declared, in this instance, the constitutionality of the law. But it is one thing to venerate our courts of justice; it is one thing to deem this law obligatory upon the citizen, while it has all these sanctions; it is another, on this floor, in the high court of the people's privileges, to advocate its repeal on the ground that it is an invasion of their rights. The embargo laws have unquestionable sanction. They are laws of this land. Yet, who shall deny to a representative of

this people the right, in their own favorite tribunal, of bringing your laws to the test of the principles of the constitution?

Is there any principle more wise, or more generally received among statesmen, than that a law, in proportion to its pressure upon the people, should have its basis in unquestionable authority, as well as necessity? A legislature may sport with the rights of an individual. It may violate the constitution to the ruin of whole classes of men. But once let it begin, by its laws, to crush the hopes of the great mass of the citizens; let it bring every eye, in the land, to the scrutiny of its laws, and its authority—to be permanent, those laws must possess no flaw in their foundation.

I ask, in what page of the constitution you find the power of laying an embargo. Directly given, it is no where. You have it, then, by construction, or by precedent—by construction of the power to regulate. I lay out of the question the commonplace argument, that regulation cannot mean annihilation; and that what is annihilated, cannot be regulated. I ask this question, Can a power be ever obtained by construction, which had never been exercised at the time of the authority given; the like of which had not only never been seen, but the idea of which had never entered into human imagination, I will not say, in this country, but in the world? Yet such is this power, which by construction you assume to exercise. Never before did society witness a total prohibition of all intercourse like this in a commercial nation. Did the people of the United States invest this house with a power, of which, at the time of investment, that people had not and could not have had any idea?—for even in works of fiction, it had never existed. But we have precedent. Precedent is directly against you. For the only precedent, that in 1794, was in conformity to the embargo power, as it had been exercised in other countries. It was limited. Its duration was known. The power passed from the representatives of this house only for sixty days. In that day, the legislature would not trust even Washington, amid all his well-earned influence, with any other than a limited power. But away, sir, with such deductions as these. I appeal to the history of the times, when this national compact was formed. This constitution grew out of our necessities, and it was, in every stage of its formation, obstructed by the jealousies and diverse interests of the different states. The gentlemen of the south had certain species of property, with the control of which they would not trust us in the north; and wisely, for we neither appreciate it as they do, nor could regulate it safely for them. In the east, our sentiment concerning their interest in commerce, and their power to understand its true interests, was, in a great degree, similar. The writings of that period exhibit this jealousy, and the fears,

excited by it, formed in that portion of the United States a formidable objection to its adoption. In this state of things, would the people of New England consent to convey to a legislature, constituted as this in time must be, a power, not only to regulate commerce, but to annihilate it for a time unlimited, or altogether? Suppose, in 1788, in the convention of Massachusetts, while debating upon the adoption of this constitution, some hoary sage had arisen, and with an eye looking deep into futurity, with a prophet's ken, had thus addressed the assembly:—"Fellow-citizens of Massachusetts, to what ruin are you hastening! Twenty years shall not elapse, before, under a secret and dubious construction of the instrument now proposed for your adoption, your commerce shall be annihilated; the whole of your vast trade prohibited. Not a boat shall cross your harbor, not a coaster shall be permitted to go out of your ports, unless under permission of the distant head of your nation, and after a grievous visitation of a custom-house officer." Sir, does any man believe, that, with such a prospect into futurity, the people of that state would have for one moment listened to its adoption? Rather would they not have rejected it with indignation? Yet this, now, is not prophecy. It is history. But this law is not perpetual, it is said. Show the limit to it. Show by what terms it can be made more perpetual.

The universal opinion entertained in New England among commercial men of the total imbecility of this law, as a measure of coercion of either belligerent, is another cause, pregnant with discontent in that country. It may do well enough to amuse ourselves with calculations of this kind on this floor; but intelligent merchants, masters of vessels, seamen, who are acquainted with the West Indies, and with the European dominions of both powers, speak with sovereign contempt of the idea of starving either of these powers into submission to our plans of policy. The entire failure of this scheme, after a trial of eleven months, would, I should suppose, have satisfied the most obstinate of its hopelessness. Yet it is revived again at this session. We are told, from high authority, of the failure of the wheat harvest in Great Britain, and this has been urged as a further reason for a continuance of this measure. Have gentlemen, who press this argument, informed themselves how exceedingly small a proportion our export of wheat bears to the whole consumption of the British dominions? Our whole export to all the world, of wheat in its natural and manufactured state, does not amount to seven millions of bushels. The whole consumption of the British dominions exceeds one hundred and fifty millions. Let gentlemen consider what a small object this amount is, in a national point of view, even could the attainment of the whole supply be assumed, as the condition of her yielding to the terms we should prescribe. Are not the borders

of the Black sea, the coast of Africa and South America, all wheat countries, open to her commerce?

But the embargo saves our resources. It may justly be questioned, whether, in this point of view, the embargo is so effectual as, at first, men are led to imagine. It may be doubted if the seed-wheat for this harvest is not worth more than the whole crop. I say nothing of the embarrassments of our commerce, of the loss of our seamen, of the sunken value of real estate. But our dead, irredeemable loss by this embargo, during the present year, cannot be stated at less than ten *per centum*, on account of interest and profit on the whole export of our country—that is, on the one hundred and eight millions, ten million eight hundred thousand dollars.

Nor can our loss upon a million tons of unemployed shipping be stated at less than at twenty dollars the ton—twenty millions of dollars. Thirty millions of dollars is a serious outfit for any voyage of salvation; and the profit ought to be very unquestionable, before a wise man would be persuaded to renew or prolong it. Besides, is it true that the articles the embargo retains are, in the common acceptation of the term, resources? I suppose, that by this word, so ostentatiously used on all occasions, it is meant to convey the idea, that the produce thus retained in the country, will be a resource for use, or defence, in case of war, or any other misfortune happening to it. But is this true? Our exports are surplus products—what we raise beyond what we consume. Because we cannot use them, they are surplus. Of course, in this country they have little or no value in use, but only in exchange. Take away the power of exchange, and how can they be called resources? Every year produces sufficient for its own consumption, and a surplus. Suppose an embargo of ten years: will gentlemen seriously contend, that the accumulating surplus of fish, cotton, tobacco and flour would be a resource for any national exigencies? We cannot consume it, because the annual product is equal to our annual consumption. Our embargo forbids us to sell it. How, then, is it a resource? Are we stronger or richer for it? The reverse—we are weaker and poorer. Weaker by all the loss of motive to activity, by all the diminution of the industry of the country, which such a deprivation of the power to exchange, produces. And what can be poorer than he, who is obliged to keep what he cannot use, and to labor for that which profiteth not?

It is in vain to say, that if the embargo was raised there would be no market. The merchants understand that subject better than you; and the eagerness with which preparations to load were carried on previous to the commencement of this session, speaks, in a language not to be mistaken, their opinion of the foreign markets. But it has been asked in debate, "Will not Massachusetts,

the cradle of liberty, submit to such privations?" An embargo liberty was never cradled in Massachusetts. Our liberty was not so much a mountain, as a sea-nymph. She was free as air. She could swim, or she could run. The ocean was her cradle. Our fathers met her as she came, like the goddess of beauty, from the waves. They caught her as she was sporting on the beach. They courted her whilst she was spreading her nets upon the rocks. But an embargo liberty; a hand-cuffed liberty; a liberty in fetters; a liberty traversing between the four sides of a prison and beating her head against the walls, is none of our offspring. We abjure the monster. Its parentage is all inland.

The gentleman from North Carolina (Mr. Macon) exclaimed the other day, "Where is the spirit of '76?" Ay, sir, where is it? Would to Heaven, that at our invocation, it would condescend to alight on this floor. But let gentlemen remember, that the spirit of '76 was not a spirit of empty declaration, or of abstract propositions. It did not content itself with non-importation acts, or non-intercourse laws. It was a spirit of active preparation; of dignified energy. It studied both to know our rights and to devise the effectual means of maintaining them. In all the annals of '76, you will find no such degrading doctrine, as that maintained in this report. It never presented to the people of the United States the alternative of war or a suspension of our rights, and recommended the latter rather than to incur the risk of the former. What was the language of that period, in one of the addresses of congress to Great Britain? "You attempt to reduce us by the sword to base and abject submission. On the sword, therefore, we rely for protection." In that day there were no alternatives presented to dishearten; no abandonment of our rights, under the pretence of maintaining them; no gaining the battle by running away. In the whole history of that period there are no such terms as "embargo; dignified retirement; trying who can do each other the most harm." At that time we had a navy; that name so odious to the influences of the present day. Yes, sir, in 1776, though but in our infancy, we had a navy scouring our coasts, and defending our commerce, which was never for one moment wholly suspended. In 1776, we had an army also; and a glorious army it was! Not composed of men halting from the stews, or swept from the jails; but of the best blood, the real yeomanry of the country—noble cavaliers, men without fear and without reproach. We had such an army in 1776, and Washington at its head. We have an army in 1808, and a head to it.

I will not humiliate those who lead the fortunes of the nation at the present day, by any comparison with the great men of that period. But I recommend the advocates of the present system of public measures to study well the true spirit of 1776, before they

venture to call it in aid of their purposes. It may bring in its train some recollections not suited to give ease or hope to their bosoms. I beg gentlemen who are so frequent in their recurrence to that period, to remember, that among the causes which led to a separation from Great Britain, the following are enumerated: "Unnecessary restrictions upon trade; cutting off commercial intercourse between the colonies; embarrassing our fisheries; wantonly depriving our citizens of necessaries; invasion of private property by governmental edicts; the authority of the commander-in-chief, and under him of the brigadier-general, being rendered supreme in the civil government; the commander-in-chief of the army made governor of a colony; citizens transferred from their native country for trial." Let gentlemen beware how they appeal to the spirit of '76; lest it come with the aspect, not of a friend, but of a tormentor; lest they find a warning, when they look for support, and instead of encouragement they are presented with an awful lesson.

But repealing the embargo will be submission to tribute. The popular ear is fretted with this word tribute; and an odium is attempted to be thrown upon those, who are indignant at this abandonment of their rights, by representing them as the advocates of tribute. Sir, who advocates it? No man in this country, I believe. This outcry about tribute is the veriest bugbear that was ever raised, in order to persuade men to quit rights which God and nature had given them. In the first place, it is scarce possible, that, if left to himself, the interest of the merchant could ever permit him to pay the British re-exportation duty, denominated tribute. France, under penalty of confiscation, prohibits our vessels from receiving a visit from an English ship, or touching at an English port. In this state of things, England pretends to permit us to export to France certain articles, paying her a duty. The statement of the case shows the futility of the attempt. Who will pay a duty to England for permission to go to France to be confiscated? But suppose there is a mistake in this, and that it may be the interest of the merchant to pay such duty, for the purpose of going to certain destruction, have not you full powers over this matter? Cannot you, by pains and penalties, prohibit the merchant from the payment of such a duty? No man will obstruct you. There is, as I believe, but one opinion upon this subject. I hope, therefore, that gentlemen will cease this outcry about tribute.

However, suppose that the payment of this duty is inevitable, which it certainly is not, let me ask—Is embargo independence? Deceive not yourselves. It is palpable submission. Gentlemen exclaim, Great Britain "smites us on one cheek." And what does administration? "It turns the other also." Gentlemen say,

Great Britain is a robber; she takes our cloak." And what say administration? "Let her take our coat also." France and Great Britain require you to relinquish a part of your commerce, and you yield it entirely. Sir, this conduct may be the way to dignity and honor in another world, but it will never secure safety and independence in this.

At every corner of this great city we meet some gentlemen of the majority wringing their hands and exclaiming—"What shall we do? Nothing but embargo will save us. Remove it, and what shall we do?" Sir, it is not for me, an humble and uninfluential individual, at an awful distance from the predominant influences, to suggest plans of government. But to my eye, the path of our duty is as distinct as the milky way; all studded with living sapphires; glowing with cumulating light. It is the path of active preparation; of dignified energy. It is the path of 1776. It consists not in abandoning our rights, but in supporting them, as they exist, and where they exist—on the ocean, as well as on the land. It consists in taking the nature of things, as the measure of the rights of your citizens; not the orders and decrees of imperious foreigners. Give what protection you can. Take no counsel of fear. Your strength will increase with the trial, and prove greater than you are now aware.

But I shall be told, "This may lead to war." I ask, "Are we now at peace?" Certainly not, unless retiring from insult be peace; unless shrinking under the lash be peace. The surest way to prevent war is not to fear it. The idea, that nothing on earth is so dreadful as war, is inculcated too studiously among us. Disgrace is worse. Abandonment of essential rights is worse.

Sir, I could not refrain from seizing the first opportunity of spreading before this house the sufferings and exigencies of New England, under this embargo. Some gentlemen may deem it not strictly before us. In my opinion, it is necessarily. For, if the idea of the committee be correct, and embargo is resistance, then this resolution sanctions its continuance. If, on the contrary, as I contend, embargo is submission, then this resolution is a pledge of its repeal.

SPEECH OF JOHN RANDOLPH,

DELIVERED IN THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES, DECEMBER 10, 1811,

On the second resolution reported by the committee of foreign relations, "That an additional force of ten thousand regular troops ought to be immediately raised, to serve for three years; and that a bounty in lands ought to be given to encourage enlistment."

Mr. Speaker,

This is a question, as it has been presented to this house, of peace or war. In that light it has been argued; in no other light can I consider it, after the declarations made by members of the committee of foreign relations. Without intending any disrespect to the chair, I must be permitted to say, that if the decision yesterday was correct, "that it was not in order to advance any arguments against the resolution, drawn from topics before other committees of the house," the whole debate, nay, the report itself, on which we are acting, is disorderly, since the increase of the military force is a subject, at this time, in agitation by a select committee, raised on that branch of the president's message. But it is impossible that the discussion of a question, broad as the wide ocean of our foreign concerns, involving every consideration of interest, of right, of happiness, and of safety at home; touching, in every point, all that is dear to freemen, "their lives, their fortunes, and their sacred honor," can be tied down by the narrow rules of technical routine.

The committee of foreign relations have, indeed, decided that the subject of arming the militia (which has been pressed upon them as indispensable to the public security), does not come within the scope of their authority. On what ground, I have been and still am unable to see, they have felt themselves authorized to recommend the raising of standing armies, with a view (as has been declared) of immediate war—a war, not of defence, but of conquest, of aggrandizement, of ambition—a war foreign to the interests of this country—to the interests of humanity itself.

I know not how gentlemen, calling themselves republicans, can advocate such a war. What was their doctrine in 1798 and '9, when the command of the army—that highest of all possible trusts in

any government, be the form what it may—was reposed in the bosom of the father of his country—the sanctuary of a nation's love; the only hope that never came in vain!—when other worthies of the revolution, Hamilton, Pinkney, and the younger Washington, men of tried patriotism, of approved conduct and valor, of untarnished honor, held subordinate command under him. Republicans were then unwilling to trust a standing army even to his hands, who had given proof that he was above all human temptation. Where now is the revolutionary hero, to whom you are about to confide this sacred trust? To whom will you confide the charge of leading the flower of our youth to the heights of Abraham? Will you find him in the person of an acquitted felon? What! then you were unwilling to vote an army where such men as have been named held high command! When Washington himself was at the head, did you show such reluctance, feel such scruples; and are you now nothing loath, fearless of every consequence? Will you say that your provocations were less then than now, when your direct commerce was interdicted, your ambassadors hooted with derision from the French court, tribute demanded, actual war waged upon you?

Those who opposed the army then, were, indeed, denounced as the partisans of France; as the same men (some of them at least) are now held up as the advocates of England; those firm and undeviating republicans, who then dared, and now dare, to cling to the ark of the constitution, to defend it even at the expense of their fame, rather than surrender themselves to the wild projects of mad ambition. There is a fatality attending plenitude of power. Soon or late, some mania seizes upon its possessors; they fall from the dizzy height through giddiness. Like a vast estate, heaped up by the labor and industry of one man, which seldom survives the third generation; power gained by patient assiduity, by a faithful and regular discharge of its attendant duties, soon gets above its own origin. Intoxicated with their own greatness, the federal party fell. Will not the same causes produce the same effects now as then? Sir, you may raise this army, you may build up this vast structure of patronage; but "lay not the flattering unction to your souls;" you will never live to enjoy the succession. You sign your political death-warrant.

[After adverting to the provocation to hostilities from shutting up the Mississippi, by Spain, in 1803, Mr. Randolph proceeded as follows:]

The peculiar situation of the frontier, at that time insulted, alone induced the committee to recommend the raising of regular troops. It was too remote from the population of the country for the militia to act, in repelling and chastising Spanish incursion. New Orleans and its dependencies were separated by a vast ex-

tent of wilderness from the settlements of the old United States; filled with a disloyal and turbulent people, alien to our institutions, language and manners, and disaffected towards our government. Little reliance could be placed upon them; and it was plain, that if "it was the intention of Spain to advance on our possessions until she be repulsed by an opposing force," that force must be a regular army, unless we were disposed to abandon all the country south of Tennessee; that "the protection of our citizens and the spirit and the honor of our country required that force should be interposed." Nothing remained but for the legislature to grant the only practicable means, or to shrink from the most sacred of all its duties—to abandon the soil and its inhabitants to the mercy of hostile invaders. Yet this report, moderate as it was, was deemed of too strong a character by the house. It was rejected: and, at the motion of a gentleman from Massachusetts (Mr. Bidwell) [who has since taken a great fancy also to Canada, and marched off thither, in advance of the committee of foreign relations], "two millions of dollars were appropriated towards" (not in full of) "any extraordinary expense which might be incurred in the intercourse between the United States and foreign nations;" in other words, to buy off, at Paris, Spanish aggressions at home. Was this fact given in evidence of our impartiality towards the belligerents? That to the insults and injuries and actual invasion of one of them, we opposed, not bullets, but dollars; that to Spanish invasion we opposed money, whilst for British aggression on the high seas we had arms—offensive war? But Spain was then shielded, as well as instigated, by a greater power. Hence our respect for her. Had we at that time acted as we ought to have done in defence of our rights—of the *natale solum* itself, we should, I feel confident, have avoided that series of insult, disgrace and injury, which has been poured out upon us in long, unbroken succession. We would not, then, raise a small, regular force for a country, where the militia could not act, to defend our own territory; now we are willing to levy a great army—for great it must be to accomplish the proposed object—for a war of conquest and ambition; and this, too, at the very entrance of the "northern hive" of the strongest part of the union.

An insinuation has fallen from the gentleman from Tennessee (Mr. Grundy), that the late massacre of our brethren on the Wabash was instigated by the British government. Has the president given any such information? Is it so believed by the administration? I have cause to believe the contrary to be the fact—that such is not their opinion. This insinuation is of the grossest kind—a presumption the most rash, the most unjustifiable. Show but good ground for it, I will give up the question at the threshold; I will be ready to march to Canada. It is, indeed,

well calculated to excite the feelings of the western people particularly, who are not quite so tenderly attached to our red brethren as some of our modern philosophers; but it is destitute of any foundation beyond mere surmise and suspicion. What would be thought, if, without any proof whatsoever, a member should rise in his place and tell us that the massacre in Savannah—a massacre perpetrated by civilized savages, with French commissions in their pockets, was excited by the French government? There is an easy and natural solution of the late transaction on the Wabash, in the well-known character of the aboriginal savage of North America, without resorting to any such mere conjectural estimate. I am sorry to say, that, for this signal calamity and disgrace, the house is, in part, at least, answerable. Session after session our table has been piled up with Indian treaties, for which the appropriations have been voted as a matter of course, without examination. Advantage has been taken of the spirit of the Indians, broken by the war which ended in the treaty of Grenville. Under the ascendency then acquired over them, they have been pent up, by subsequent treaties, into nooks; straitened in their quarters by a blind cupidity, seeking to extinguish their title to immense wildernesses; for which (possessing, as we do already, more land than we can sell or use) we shall not have occasion, for half a century to come. It is our own thirst for territory, our own want of moderation, that has driven these sons of nature to desperation, of which we feel the effects. Although not personally acquainted with the late Col. Daveiss, I feel, I am persuaded, as deep and serious regret for his loss as the gentleman from Tennessee himself. I know him only through the representation of a friend of the deceased (Mr. Rowan), some time a member of this house—a man who, for native force of intellect, manliness of character, and high sense of honor, is not inferior to any that have ever sat here. With him I sympathize in the severest calamity that could befall a man of his cast of character. Would to God they were both now on this floor. From my personal knowledge of the one, I feel confident that I should have his support; and, I believe (judging of him from the representation of our common friend), of the other also.

I cannot refrain from smiling at the liberality of the gentleman, in giving Canada to New York, in order to strengthen the northern balance of power; while, at the same time, he forewarns her, that the western scale must preponderate. I can almost fancy that I see the capitol in motion towards the falls of Ohio; after a short sojourn, taking its flight to the Mississippi, and finally alighting on Darien; which, when the gentleman's dreams are realized, will be a most eligible seat of government for the new republic (or empire) of the two Americas! But it seems, that

"in 1808 we talked and acted foolishly," and to give some color of consistency to that folly, we must now commit a greater. Really I cannot conceive of a weaker reason, offered in support of a present measure, than the justification of a former folly. I hope we shall act a wise part; take warning by our follies, since we have become sensible of them, and resolve to talk and act foolishly no more. It is, indeed, high time to give over such preposterous language and proceedings. This war of conquest—a war for the acquisition of territory and subjects—is to be a new commentary on the doctrine, that republicans are destitute of ambition; that they are addicted to peace, wedded to the happiness and safety of the great body of their people. But, it seems, this is to be a holiday campaign; there is to be no expense of blood or treasure on our part; Canada is to conquer herself; she is to be subdued by the principles of fraternity! The people of that country are first to be seduced from their allegiance, and converted into traitors, as preparatory to making them good citizens! Although I must acknowledge, that some of our flaming patriots were thus manufactured, I do not think the process would hold good with a whole community. It is a dangerous experiment. We are to succeed in the French mode, by the system of fraternization—all is French! But how dreadfully it might be retorted on the southern and western slave-holding states. I detest this subornation of treason. No; if we must have them, let them fall by the valor of our arms; by fair, legitimate conquest; not become the victims of treacherous seduction.

I am not surprised at the war-spirit which is manifesting itself in gentlemen from the south. In the year 1805—6, in a struggle for the carrying trade of belligerent-colonial produce, this country was most unwisely brought into collision with the great powers of Europe. By a series of most impolitic and ruinous measures, utterly incomprehensible to every rational, sober-minded man, the southern planters, by their own votes, have succeeded in knocking down the price of cotton to seven cents, and of tobacco (a few choice crops excepted) to nothing; and in raising the price of blankets (of which a few would not be amiss in a Canadian campaign), coarse woollens, and every article of first necessity, three or four hundred *per centum*. And now, that, by our own acts, we have brought ourselves into this unprecedented condition, we must get out of it in any way, but by an acknowledgment of our own want of wisdom and forecast. But is war the true remedy? Who will profit by it? Speculators; a few lucky merchants, who draw prizes in the lottery; commissaries and contracters. Who must suffer by it? The people. It is their blood, their taxes, that must flow to support it.

But gentlemen avowed that they would not go to war for the

carrying trade; that is, for any other but the direct export and import trade; that which carries our native products abroad, and brings back the return cargo; and yet they stickle for our commercial rights, and will go to war for them! I wish to know, in point of principle, what difference gentlemen can point out between the abandonment of this or of that maritime right? Do gentlemen assume the lofty port and tone of chivalrous redressers of maritime wrongs, and declare their readiness to surrender every other maritime right, provided they may remain unmolested in the exercise of the humble privilege of carrying their own produce abroad, and bringing back a return cargo? Do you make this declaration to the enemy at the outset? Do you state the *minimum* with which you will be contented, and put it in their power to close with your proposals at their option; give her the basis of a treaty ruinous and disgraceful beyond example and expression? And this too, after having turned up your noses in disdain at the treaties of Mr. Jay and Mr. Monroe! Will you say to England, "End the war when you please; give us the direct trade in our own produce, we are content?" But what will the merchants of Salem, and Boston, and New York, and Philadelphia, and Baltimore, the men of Marblehead and cape Cod, say to this? Will they join in a war, professing to have for its object what they would consider (and justly too) as the sacrifice of their maritime rights, yet affecting to be a war for the protection of commerce?

I am gratified to find gentlemen acknowledging the demoralizing and destructive consequences of the non-importation law; confessing the truth of all that its opponents foretold, when it was enacted. And will you plunge yourselves in war, because you have passed a foolish and ruinous law, and are ashamed to repeal it? "But our good friend, the French emperor, stands in the way of its repeal; and as we cannot go too far in making sacrifices to him, who has given such demonstration of his love for the Americans, we must, in point of fact, become parties to his war. Who can be so cruel as to refuse him that favor?" My imagination shrinks from the miseries of such a connection. I call upon the house to reflect, whether they are not about to abandon all reclamation for the unparalleled outrages, "insults and injuries" of the French government; to give up our claim for plundered millions; and I ask what reparation or atonement they can expect to obtain in hours of future dalliance, after they shall have made a tender of their person to this great deflowerer of the virginity of republics? We have, by our own wise (I will not say wiseacre) measures, so increased the trade and wealth of Montreal and Quebec, that at last we begin to cast a wishful eye at Canada. Having done so much towards its improvement, by the exercise of "our restrictive energies," we begin to think the laborer worthy of his

hire, and to put in claim for our portion. Suppose it ours, are we any nearer to our point? As his minister said to the king of Epirus, "May we not as well take our bottle of wine before as after this exploit?" Go! march to Canada! leave the broad bosom of the Chesapeake and her hundred tributary rivers, the whole line of sea-coast from Machias to St. Mary's, unprotected! You have taken Quebec—have you conquered England? Will you seek for the deep foundations of her power in the frozen deserts of Labrador?

> "Her march is on the mountain wave,
> Her home is on the deep."

Will you call upon her to leave your ports and harbors untouched, only just till you can return from Canada, to defend them? The coast is to be left defenceless, whilst men of the interior are revelling in conquest and spoil. But grant for a moment, for mere argument's sake, that in Canada you touched the sinews of her strength, instead of removing a clog upon her resources—an encumbrance, but one which, from a spirit of honor, she will vigorously defend. In what situation would you then place some of the best men of the nation? As Chatham and Burke, and the whole band of her patriots, prayed for her defeat in 1776, so must some of the truest friends to their country deprecate the success of our arms against the only power that holds in check the arch-enemy of mankind.

The committee have outstripped the executive. In designating the power, against whom this force is to be employed, as has most unadvisedly been done in the preamble or manifesto with which the resolutions are prefaced, they have not consulted the views of the executive, that designation is equivalent to an abandonment of all our claims on the French government. No sooner was the report laid on the table, than the vultures were flocking round their prey—the carcass of a great military establishment. Men of tainted reputation, of broken fortune (if they ever had any), and of battered constitutions, "choice spirits, tired of the dull pursuits of civil life," were seeking after agencies and commissions, willing to doze in gross stupidity over the public fire; to light the public candle at both ends. Honorable men undoubtedly there are, ready to serve their country; but what man of spirit, or of self-respect, will accept a commission in the present army? The gentleman from Tennessee (Mr. Grundy) addressed himself yesterday exclusively to the "republicans of the house." I know not whether I may consider myself as entitled to any part of the benefit of the honorable gentleman's discourse. It belongs not, however, to that gentleman to decide. If we must have an exposition of the doctrines of republicanism, I shall receive it from the

fathers of the church, and not from the junior apprentices of the law. I shall appeal to my worthy friends from Carolina (Messrs. Macon and Stanford), "men with whom I have measured my strength," by whose side I have fought during the reign of terror; for it was indeed an hour of corruption, of oppression, of pollution. It is not at all to my taste—that sort of republicanism which was supported, on this side of the Atlantic, by the father of the sedition law, John Adams, and by Peter Porcupine on the other. Republicanism! of John Adams and William Cobbett! * * * * * * * * * * * Gallant crusaders in the holy cause of republicanism! Such "republicanism does, indeed, mean any thing or nothing." Our people will not submit to be taxed for this war of conquest and dominion. The government of the United States was not calculated to wage offensive foreign war; it was instituted for the common defence and general welfare; and whosoever should embark it in a war of offence, would put it to a test which it is by no means calculated to endure. Make it out that Great Britain has instigated the Indians on a late occasion, and I am ready for battle, but not for dominion. I am unwilling, however, under present circumstances, to take Canada, at the risk of the constitution, to embark in a common cause with France, and to be dragged at the wheels of the car of some Burr or Bonaparte. For a gentleman from Tennessee, or Genesee, or lake Champlain, there may be some prospect of advantage. Their hemp would bear a great price by the exclusion of foreign supply. In that, too, the great importers are deeply interested. The upper country on the Hudson and the lakes would be enriched by the supplies for the troops, which they alone could furnish. They would have the exclusive market; to say nothing of the increased preponderance from the acquisition of Canada and that section of the union, which the Southern and Western States have already felt so severely in the apportionment bill.

Permit me now, sir, to call your attention to the subject of our black population. I will touch this subject as tenderly as possible. It is with reluctance that I touch it at all; but in cases of great emergency, the state physician must not be deterred by a sickly, hysterical humanity, from probing the wound of his patient: he must not be withheld by a fastidious and mistaken delicacy from representing his true situation to his friends, or even to the sick man himself, when the occasion calls for it. What is the situation of the slave-holding states? During the war of the revolution, so fixed were their habits of subordination, that while the whole country was overrun by the enemy, who invited them to desert, no fear was ever entertained of an insurrection of the slaves. During a war of seven years with our country in pos-

session of the enemy, no such danger was ever apprehended. But should we, therefore, be unobservant spectators of the progress of society within the last twenty years; of the silent, but powerful change wrought, by time and chance, upon its composition and temper? When the fountains of the great deep of abomination were broken up, even the poor slaves did not escape the general deluge. The French revolution has polluted even them. Nay, there have not been wanting men in this house—witness our legislative Legendre, the butcher who once held a seat here—to preach upon this floor these imprescriptible rights to a crowded audience of blacks in the galleries; teaching them, that they are equal to their masters; in other words, advising them to cut their throats. Similar doctrines have been disseminated by pedlers from New England and elsewhere, throughout the southern country; and masters have been found so infatuated as, by their lives and conversation, by a general contempt of order, morality and religion, unthinkingly to cherish these seeds of self-destruction to them and their families. What has been the consequence? Within the last ten years, repeated alarms of insurrection among the slaves; some of them awful indeed. From the spreading of this infernal doctrine, the whole southern country has been thrown into a state of insecurity. Men, dead to the operation of moral causes, have taken away from the poor slave his habits of loyalty and obedience to his master, which lightened his servitude by a double operation; beguiling his own cares and disarming his master's suspicions and severity; and now, like true empirics in politics, you are called upon to trust to the mere physical strength of the fetter which holds him in bondage. You have deprived him of all moral restraint; you have tempted him to eat of the fruit of the tree of knowledge, just enough to perfect him in wickedness; you have opened his eyes to his nakedness; you have armed his nature against the hand that has fed, that has clothed him, that has cherished him in sickness; that hand, which, before he became a pupil of your school, he had been accustomed to press with respectful affection. You have done all this—and then show him the gibbet and the wheel, as incentives to a sullen, repugnant obedience. God forbid, sir, that the Southern States should ever see an enemy on their shores, with these infernal principles of French fraternity in the van. While talking of taking Canada, some of us are shuddering for our own safety at home. I speak from facts, when I say, that the night-bell never tolls for fire in Richmond, that the mother does not hug her infant more closely to her bosom. I have been a witness of some of the alarms in the capital of Virginia.

How have we shown our sympathy with the patriots of Spain, or with the American provinces? By seizing on one of them,

her claim to which we had formerly respected, as soon as the parent country was embroiled at home. Is it thus we yield them assistance against the arch-fiend, who is grasping at the sceptre of the civilized world? The object of France is as much Spanish-America as old Spain herself. Much as I hate a standing army, I could almost find it in my heart to vote one, could it be sent to the assistance of the Spanish patriots.

Against whom are these charges of British predilection brought? Against men, who, in the war of the revolution, were in the councils of the nation, or fighting the battles of your country. And by whom are they made? By runaways chiefly from the British dominions, since the breaking out of the French troubles. It is insufferable. It cannot be borne. It must and ought, with severity, to be put down in this house, and out of it to meet the lie direct. We have no fellow-feeling for the suffering and oppressed Spaniards! Yet even them we do not reprobate. Strange! that we should have no objection to any other people or government, civilized or savage, in the whole world! The great autocrat of all the Russias receives the homage of our high consideration. The dey of Algiers and his divan of pirates, are very civil, good sort of people, with whom we find no difficulty in maintaining the relations of peace and amity. "Turks, Jews and Infidels," Melimelli or the Little Turtle; barbarians and savages of every clime and color, are welcome to our arms. With chiefs of banditti, negro or mulatto, we can treat and can trade. Name, however, but England, and all our antipathies are up in arms against her. Against whom? Against those whose blood runs in our veins; in common with whom, we claim Shakspeare, and Newton, and Chatham, for our countrymen; whose form of government is the freest on earth, our own only excepted; from whom every valuable principle of our own institutions has been borrowed—representation—jury trial—voting the supplies—writ of *habeas corpus*—our whole civil and criminal jurisprudence;—against our fellow Protestants, identified in blood, in language, in religion with ourselves. In what school did the worthies of our land, the Washingtons, Henrys, Hancocks, Franklins, Rutledges of America, learn those principles of civil liberty, which were so nobly asserted by their wisdom and valor? American resistance to British usurpation has not been more warmly cherished by these great men and their compatriots; not more by Washington, Hancock and Henry, than by Chatham and his illustrious associates in the British parliament. It ought to be remembered, too, that the heart of the English people was with us. It was a selfish and corrupt ministry, and their servile tools, to whom we were not more opposed than they were. I trust that none such may ever exist among us; for tools will never be wanting to subserve the

purposes, however ruinous or wicked, of kings and ministers of state. I acknowledge the influence of a Shakspeare and a Milton upon my imagination, of a Locke upon my understanding, of a Sidney upon my political principles, of a Chatham upon qualities which, would to God, I possessed in common with that illustrious man! of a Tillotson, a Sherlock and a Porteus, upon my religion. This is a British influence which I can never shake off. I allow much to the just and honest prejudices growing out of the revolution. But by whom have they been suppressed, when they ran counter to the interests of my country? By Washington. By whom, would you listen to them, are they most keenly felt? By felons escaped from the jails of Paris, Newgate and Kilmainham, since the breaking out of the French revolution; who, in this abused and insulted country, have set up for political teachers, and whose disciples give no other proof of their progress in republicanism, except a blind devotion to the most ruthless military despotism that the world ever saw. These are the patriots, who scruple not to brand with the epithet of tory, the men (looking towards the seat of colonel Stewart) by whose blood your liberties have been cemented. These are they, who hold in such keen remembrance the outrages of the British armies, from which many of them are deserters. Ask these self-styled patriots where they were during the American war (for they are, for the most part, old enough to have borne arms), and you strike them dumb; their lips are closed in eternal silence. If it were allowable to entertain partialities, every consideration of blood, language, religion and interest, would incline us towards England; and yet, shall they be alone extended to France and her ruler, whom we are bound to believe a chastening God suffers as the scourge of a guilty world? On all other nations he tramples; he holds them in contempt; England alone he hates; he would, but he cannot despise her; fear cannot despise; and shall we disparage our ancestors? Shall we bastardize ourselves by placing them even below the brigands of St. Domingo?—with whom Mr. Adams negotiated a sort of treaty, for which he ought to have been, and would have been impeached, if the people had not previously passed sentence of disqualification for their service upon him. This antipathy to all that is English, must be French.

But the outrages and injuries of England, bred up in the principles of the revolution, I can never palliate, much less defend them. I well remember flying, with my mother and her newborn child, from Arnold and Phillips—and we were driven by Tarleton and other British pandours, from pillar to post, while her husband was fighting the battles of his country. The impression is indelible on my memory; and yet (like my worthy old neighbor, who added seven buckshot to every cartridge at the battle of

Guilford, and drew a fine sight at his man) I must be content to be called a tory by a patriot of the last importation. Let us not get rid of one evil (supposing it possible) at the expense of a greater: *mutatis mutandis*, suppose France in possession of the British naval power—and to her the trident must pass, should England be unable to wield it—what would be your condition? What would be the situation of your seaports, and their seafaring inhabitants? Ask Hamburg, Lubec! Ask Savannah! What, sir, when their privateers are pent up in our harbors by the British bull-dogs; when they receive at our hands every right of hospitality, from which their enemy is excluded; when they capture in our own waters, interdicted to British armed ships, American vessels; when such is their deportment towards you, under such circumstances, what could you expect if they were the uncontrolled lords of the ocean? Had those privateers at Savannah borne British commissions, or had your shipments of cotton, tobacco, ashes, and what not, to London and Liverpool, been confiscated, and the proceeds poured into the English exchequer, my life upon it, you would never have listened to any miserable, wire-drawn distinctions between "orders and decrees affecting our neutral rights," and "municipal decrees," confiscating, in mass, your whole property: you would have had instant war! The whole land would have blazed out in war. And shall republicans become the instruments of him who has effaced the title of Attila to the "scourge of God?" Yet even Attila, in the falling fortunes of civilization, had, no doubt, his advocates, his tools, his minions, his parasites, in the very countries that he overrun—sons of that soil, whereon his horse had trod, where grass could never after grow. If perfectly fresh, instead of being as I am, my memory clouded, my intellect stupefied, my strength and spirits exhausted, I could not give utterance to that strong detestation which I feel towards (above all other works of the creation) such characters as Gengis, Tamerlane, Kouli Khan, or Bonaparte. My instincts involuntarily revolt at their bare idea—malefactors of the human race, who have ground down man to a mere machine of their impious and bloody ambition! Yet, under all the accumulated wrongs, and insults, and robberies of the last of these chieftains, are we not, in point of fact, about to become a party to his views, a partner in his wars?

But before this miserable force of ten thousand men is raised to take Canada, I beg gentlemen to look at the state of defence at home; to count the cost of the enterprise before it is set on foot, not when it may be too late; when the best blood of the country shall be spilt, and nought but empty coffers left to pay the cost. Are the bounty lands to be given in Canada? It might lessen my repugnance to that part of the system, to granting these lands,

not to these miserable wretches, who sell themselves to slavery for a few dollars, and a glass of gin, but, in fact, to the clerks in our offices, some of whom, with an income of fifteen hundred or two thousand dollars, live at the rate of four or five thousand, and yet grow rich; who, perhaps, at this moment, are making out blank assignments for these land rights. I beseech the house, before they run their heads against this post, Quebec, to count the cost. My word for it, Virginia planters will not be taxed to support such a war—a war which must aggravate their present distresses—in which they have not the remotest interest. Where is the Montgomery, or even the Arnold, or the Burr, who is to march to the Point Levi?

I call upon those professing to be republicans, to make good the promises held out by their republican predecessors, when they came into power; promises which, for years afterwards, they honestly, faithfully fulfilled. We have vaunted of paying off the national debt; of retrenching useless establishments, and yet have now become as infatuated with standing armies, loans, taxes, navies, and war, as ever were the Essex Junto.

[Mr. Randolph apologized for his very desultory manner of speaking. He regretted that his bodily indisposition had obliged him to talk, perhaps, somewhat wildly; yet he trusted some method would be found in his madness.]

SPEECH OF JOHN C. CALHOUN,

IN THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES, DECEMBER 12, 1811,

On the second resolution reported by the committee of foreign relations, "That an additional force of ten thousand regular troops ought to be immediately raised, to serve for three years; and that a bounty in lands ought to be given to encourage enlistment."

Mr. Speaker,

I understood the opinion of the committee of foreign relations differently from what the gentleman from Virginia (Mr. Randolph) has stated to be his impression. I certainly understood that committee as recommending the measures now before the house, as a preparation for war; and such, in fact, was its express resolve, agreed to, I believe, by every member except that gentleman. I do not attribute any wilful misstatement to him, but consider it the effect of inadvertency or mistake. Indeed, the report could mean nothing but war or empty menace. I hope no member of this house is in favor of the latter. A bullying, menacing system has every thing to condemn, and nothing to recommend it: in expense it is almost as considerable as war; it excites contempt abroad, and destroys confidence here. Menaces are serious things, and if we expect any good from them, they ought to be resorted to with as much caution and seriousness, as war itself; and should, if not successful, be invariably followed by it. It was not the gentleman from Tennessee (Mr. Grundy) that made this a war question. The resolve contemplates an additional, regular force; a measure confessedly improper, but as a preparation for war, but undoubtedly necessary in that event. Sir, I am not insensible of the weighty importance of this question, for the first time submitted to this house, as a redress of our long list of complaints against one of the belligerents; but, according to my mode of thinking on this subject, however serious the question, whenever I am on its affirmative side, my conviction must be strong and unalterable. War, in this country, ought never to be resorted to but when it is clearly justifiable and necessary; so much so as not to require the aid of logic to convince our reason, nor the ardor of eloquence to inflame our passions. There are many reasons why this country

should never resort to war but for causes the most urgent and necessary. It is sufficient that, under a government like ours, none but such will justify it in the eye of the nation; and, were I not satisfied that such is our present cause, I certainly would be no advocate of the proposition now before the house.

Sir, I prove the war, should it ensue, justifiable, by the express admission of the gentleman from Virginia; and necessary, by facts undoubted, and universally admitted—such as that gentleman did not pretend to controvert. The extent, duration, and character of the injuries received; the failure of those peaceful means, heretofore resorted to for the redress of our wrongs, is my proof that it is necessary. Why should I mention the impressment of our seamen; depredation on every branch of our commerce, including the direct export trade, continued for years, and made under laws which professedly undertake to regulate our trade with other nations; negotiation resorted to, time after time, till it is become hopeless; the restrictive system persisted in, to avoid war, and in the vain expectation of returning justice? The evil still grows, and in each succeeding year, swells in extent and pretension beyond the preceding. The question, even in the opinion and admission of our opponents, is reduced to this single point—which shall we do, abandon or defend our own commercial and maritime rights, and the personal liberties of our citizens employed in exerting them? These rights are essentially attacked, and war is the only means of redress. The gentleman from Virginia has suggested none, unless we consider the whole of his speech as recommending patient and resigned submission as the best remedy. Sir, which alternative this house ought to embrace, it is not for me to say. I hope the decision is made already, by a higher authority than the voice of any man. It is not for the human tongue to instil the sense of independence and honor. This is the work of nature—a generous nature that disdains tame submission to wrongs.

This part of the subject is so imposing, as to enforce silence even on the gentleman from Virginia. He dared not to deny his country's wrongs, or vindicate the conduct of her enemy.

Only one point of that gentleman's argument had any, the most remote, relation to this point. He would not say, we had not a good cause of war; but insisted that it was our duty to define that cause. If he means that this house ought, at this stage of the proceeding, or any other, to enumerate such violations of our rights, as we are willing to contend for, he prescribes a course, which neither good sense nor the usage of nations warrants. When we contend, let us contend for all our rights—the doubtful and the certain, the unimportant and essential. It is as easy to struggle, or even more so, for the whole, as a part. At the ter-

mination of the contest, secure all that our wisdom and valor and the fortune of the war will permit. This is the dictate of common sense; such also is the usage of nations. The single instance alluded to, the endeavor of Mr. Fox to compel Mr. Pitt to define the object of the war against France, will not support the gentleman from Virginia in his position. That was an extraordinary war for an extraordinary purpose, and could not be governed by the usual rules. It was not for conquest, or for redress of injury but to impose a government on France, which she refused to receive; an object so detestable, that an avowal dare not be made. Sir, here I might rest the question. The affirmative of the proposition is established. I cannot but advert, however, to the complaint of the gentleman from Virginia, the first time he was up on this question. He said, he found himself reduced to the necessity of supporting the negative side of the question before the affirmative was established. Let me tell that gentleman, that there is no hardship in his case. It is not every affirmative that ought to be proved. Were I to affirm, the house is now in session, would it be reasonable to ask for proof? He who would deny its truth, on him would be the proof of so extraordinary a negative. How then could the gentleman, after his admissions, with the facts before him and the nation, complain? The causes are such as to warrant, or rather make it indispensable in any nation, not absolutely dependent, to defend its rights by force. Let him, then, show the reasons why we ought not so to defend ourselves. On him, then, is the burden of proof. This he has attempted; he has endeavored to support his negative.

Before I proceed to answer the gentleman particularly, let me call the attention of the house to one circumstance; that is, that almost the whole of his arguments consisted of an enumeration of evils always incident to war, however just and necessary; and that, if they have any force, it is calculated to produce unqualified submission to every species of insult and injury. I do not feel myself bound to answer arguments of the above description; and if I should touch on them, it will be only incidentally, and not for the purpose of serious refutation. The first argument of the gentleman which I shall notice, is the unprepared state of the country. Whatever weight this argument might have, in a question of immediate war, it surely has little in that of preparation for it. If our country is unprepared, let us remedy the evil as soon as possible. Let the gentleman submit his plan; and if a reasonable one, I doubt not it will be supported by the house. But, sir, let us admit the fact and the whole force of the argument; I ask whose is the fault? Who has been a member for many years past, and has seen the defenceless state of his country even near home, under his own eyes, without a single endeavor to remedy so

serious an evil? Let him not say, "I have acted in a minority." It is no less the duty of the minority than a majority to endeavor to serve our country. For that purpose we are sent here, and not for that of opposition. We are next told of the expenses of the war, and that the people will not pay taxes. Why not? Is it a want of capacity? What, with one million tons of shipping; a trade of near one hundred million dollars; manufactures of one hundred and fifty million dollars, and agriculture of thrice that amount, shall we be told the country wants capacity to raise and support ten thousand or fifteen thousand additional regulars? No; it has the ability, that is admitted; but will it not have the disposition? Is not the course a just and necessary one? Shall we then utter this libel on the nation? Where will proof be found of a fact so disgraceful? It is said, in the history of the country twelve or fifteen years ago. The case is not parallel. The ability of the country has greatly increased since. The object of that tax was unpopular. But on this, as well as my memory and almost infant observation at that time serve me, the objection was not to the tax, or its amount, but the mode of collection. The eye of the nation was frightened by the number of officers; its love of liberty shocked with the multiplicity of regulations. We, in the vile spirit of imitation, copied from the most oppressive part of European laws on that subject, and imposed on a young and virtuous nation all the severe provisions made necessary by corruption and long-growing chicane. If taxes should become necessary, I do not hesitate to say the people will pay cheerfully. It is for their government and their cause, and would be their interest and duty to pay. But it may be, and I believe was said, that the nation will not pay taxes, because the rights violated are not worth defending; or that the defence will cost more than the profit.

Sir, I here enter my solemn protest against this low and "calculating avarice" entering this hall of legislation. It is only fit for shops and counting-houses, and ought not to disgrace the seat of sovereignty by its squalid and vile appearance. Whenever it touches sovereign power, the nation is ruined. It is too short-sighted to defend itself. It is an unpromising spirit, always ready to yield a part to save the balance. It is too timid to have in itself the laws of self-preservation. It is never safe but under the shield of honor. Sir, I only know of one principle to make a nation great, to produce in this country not the form but real spirit of union, and that is, to protect every citizen in the lawful pursuit of his business. He will then feel that he is backed by the government—that its arm is his arms, and will rejoice in its increased strength and prosperity. Protection and patriotism are reciprocal. This is the road that all great nations have trod. Sir, I am not

versed in this calculating policy, and will not, therefore, pretend to estimate in dollars and cents the value of national independence or national affection. I cannot dare to measure in shillings and pence the misery, the stripes and the slavery of our impressed seamen; nor even to value our shipping, commercial and agricultural losses under the orders in council and the British system of blockade. I hope I have not condemned any prudent estimate of the means of a country, before it enters on a war. This is wisdom, the other folly.

Sir, the gentleman from Virginia has not failed to touch on the calamity of war—that fruitful source of declamation, by which pity becomes the advocate of cowardice; but I know not what we have to do with that subject. If the gentleman desires to repress the gallant ardor of our countrymen by such topics, let me inform him that true courage regards only the cause, that it is just and necessary, and that it despises the pain and danger of war. If he really wishes to promote the cause of humanity, let his eloquence be addressed to lord Wellesley or Mr. Percival, and not the American congress. Tell them, if they persist in such daring insult and injury to a neutral nation, that, however inclined to peace, it will be bound in honor and interest to resist; that their patience and benevolence, however great, will be exhausted; that the calamity of war will ensue, and that they, in the opinion of wounded humanity, will be answerable for all its devastation and misery. Let melting pity, a regard to the interests of humanity, stay the hand of injustice, and my life on it, the gentleman will not find it difficult to call off his country from the bloody scenes of war. We are next told of the danger of war! I believe we are all ready to acknowledge its hazard and accidents; but I cannot think we have any extraordinary danger to contend with, at least so much as to warrant an acquiescence in the injuries we have received; on the contrary, I believe no war can be less dangerous to internal peace or national existence. But we are told of the black population of the Southern States. As far as the gentleman from Virginia speaks of his own personal knowledge, I will not pretend to contradict him; I only regret that such is the dreadful state of his particular part of the country. Of the southern section, I too have some personal knowledge, and can say, that in South Carolina no such fears in any part are felt. But, sir, admit the gentleman's statement; will a war with Great Britain increase the danger? Will the country be less able to repress insurrection? Had we any thing to fear from that quarter, which I sincerely disbelieve, in my opinion, the precise time of the greatest safety is during a war, in which we have no fear of invasion; then the country is most on its guard; our militia the best prepared; and standing force the greatest. Even in our revolution, no attempts were made by that

portion of our population; and, however the gentleman may frighten himself with the disorganizing effects of French principles, I cannot think our ignorant blacks have felt much of their baneful influence. I dare say, more than one half of them never heard of the French revolution. But as great as is the danger from our slaves, the gentleman's fears end not there—the standing army is not less terrible to him.

Sir, I think a regular force, raised for a period of actual hostilities, cannot be called a standing army. There is a just distinction between such a force, and one raised as a peace establishment. Whatever may be the composition of the latter, I hope the former will consist of some of the best materials of the country. The ardent patriotism of our young men, and the reasonable bounty in land, which is proposed to be given, will impel them to join their country's standard and to fight her battles; they will not forget the citizen in the soldier, and, in obeying their officer, learn to contemn their constitution. In our officers and soldiers we will find patriotism no less pure and ardent than in the private citizen; but if they should be depraved as represented, what have we to fear from twenty-five or thirty thousand regulars? Where will be the boasted militia of the gentleman? Can one million of militia be overpowered by thirty thousand regulars? If so, how can we rely on them against a foe invading our country? Sir, I have no such contemptuous idea of our militia; their untaught bravery is sufficient to crush all foreign and internal attempts on their country's liberties. But we have not yet come to the end of the chapter of dangers. The gentleman's imagination, so fruitful on this subject, conceives, that our constitution is not calculated for war, and that it cannot stand its rude shock. This is rather extraordinary: we must then depend upon the pity or contempt of other nations for our existence. The constitution, it seems, has failed in its essential part "to provide for the common defence." No, says the gentleman from Virginia, it is competent for a defensive, but not an offensive war. It is not necessary for me to expose the error of this opinion. Why make the distinction in this instance? Will he pretend to say, that this is an offensive war; a war of conquest? Yes, the gentleman has dared to make this assertion, and for reasons no less extraordinary than the assertion itself. He says our rights are violated on the ocean, and that these violations affect our shipping and commercial rights, to which the Canadas have no relation. The doctrine of retaliation has been much abused of late by an unnatural extension; we have now to witness a new abuse. The gentleman from Virginia has limited it down to a point. By his system, if you receive a blow on the breast, you dare not return it on the head; you are obliged to measure and return it on the precise point on which it was received. If you do

not proceed with this mathematical accuracy, it ceases to be just self-defence: it becomes an unprovoked attack.

In speaking of Canada, the gentleman from Virginia introduced the name of Montgomery with much feeling and interest. Sir, there is danger in that name to the gentleman's argument. It is sacred to heroism! It is indignant of submission! This calls my memory back to the time of our revolution; to the congress of '74 and '75. Suppose a speaker of that day had risen and urged all the arguments which we have heard on this subject; had told that congress, "Your contest is about the right of laying a tax: the attempt on Canada has nothing to do with it: the war will be expensive; danger and devastation will overspread our country, and the power of Great Britain is irresistible!" With what sentiment, think you, would such doctrines have been then received? Happy for us, they had no force at that period of our country's glory. Had they been then acted on, this hall would never have witnessed a great nation convened to deliberate for the general good; a mighty empire, with prouder prospects than any nation the sun ever shone on, would not have risen in the West. No: we would have been vile, subjected colonies; governed by that imperious rod which Britain holds over her distant provinces. Sir, the gentleman from Virginia attributes the preparation for war to every thing but its true cause. He endeavored to find it in the probable rise of the price of hemp. He represents the people of the Western States as willing to plunge our country into war, for such base and precarious motives. I will not reason on this point. I see the cause of their ardor, not in such base motives, but in their known patriotism and disinterestedness. No less mercenary is the reason which he attributes to the Southern States. He says that the non-importation act has reduced cotton to nothing, which has produced a feverish impatience. Sir, I acknowledge the cotton of our farms is worth but little, but not for the cause assigned by the gentleman from Virginia. The people of that section do not reason as he does; they do not attribute it to the efforts of their government to maintain the peace and independence of their country; they see in the low price of their produce the hand of foreign injustice; they know well, without the market of the continent, the deep and steady current of supply will glut that of Great Britain; they are not prepared for the colonial state to which again that power is endeavoring to reduce us. The manly spirit of that section of our country will not submit to be regulated by any foreign power.

The love of France and the hatred of England has also been assigned as the cause of the present measures. France has not done us justice, says the gentleman from Virginia, and how can we, without partiality, resist the aggressions of England? I know,

sir, we have still causes of complaint against France; but it is of a different character from those against England. She professes now to respect our rights, and there cannot be a reasonable doubt, but that the most objectionable parts of her decrees, as far as they respect us, are repealed. We have already formally acknowledged this to be a fact. I, however, protest against the whole of the principles on which this doctrine is founded. It is a novel doctrine, and no where to be found out of this house, that you cannot select your antagonist without being guilty of partiality. Sir, when two invade your rights, you may resist both, or either, at your pleasure. It is regulated by prudence, and not by right. The stale imputation of partiality to France is better calculated for the columns of a newspaper than for the walls of this house. I ask, in this particular, of the gentleman from Virginia, but for the same measure which he claims for himself. That gentleman is at a loss to account for, what he calls, our hatred to England. He asks, How can we hate the country of Locke, of Newton, Hampden and Chatham; a country having the same language and customs with ourselves, and descending from a common ancestry? Sir, the laws of human affections are uniform. If we have so much to attach us to that country, powerful, indeed, must be the cause which has overpowered it.

Yes, sir, there is a cause strong enough. Not that occult, courtly affection, which he has supposed to be entertained for France; but it is to be found in continued and unprovoked insult and injury—a cause so manifest, that the gentleman from Virginia had to exert much ingenuity to overlook it. But, sir, here I think the gentleman, in his eager admiration of that country, has not been sufficiently guarded in his argument. Has he reflected on the cause of that admiration? Has he examined the reasons of our high regard for her Chatham? It is his ardent patriotism; the heroic courage of his mind, that could not brook the least insult or injury offered to his country, but thought that her interest and honor ought to be vindicated at every hazard and expense. I hope, when we are called on to admire, we shall also be asked to imitate. I hope the gentleman does not wish a monopoly of those great virtues to remain to that nation. The balance of power has also been introduced as an argument for submission. England is said to be a barrier against the military despotism of France. There is, sir, one great error in our legislation. We are ready enough to protect the interest of the states; and it should seem, from this argument, to watch over those of a foreign nation, while we grossly neglect our own immediate concerns. This argument of the balance of power is well calculated for the British parliament, but not at all fitted to the American congress. Tell them, that they have to contend with a mighty power, and that if they

persist in insult and injury to the American people, they will compel them to throw the whole weight of their force into the scale of their enemy. Paint the danger to them, and if they will desist from injury, we, I answer for it, will not disturb the balance. But it is absurd for us to talk of the balance of power, while they, by their conduct, smile with contempt at our simple, good-natured policy. If, however, in the contest, it should be found, that they underrate us, which I hope and believe, and that we can effect the balance of power, it will not be difficult for us to obtain such terms as our rights demand. I, sir, will now conclude, by adverting to an argument of the gentleman from Virginia, used in debate on a preceding day. He asked, Why not declare war immediately? The answer is obvious; because we are not yet prepared. But, says the gentleman, such language, as is here held, will provoke Great Britain to commence hostilities. I have no such fears. She knows well, that such a course would unite all parties here; a thing, which, above all others, she most dreads. Besides, such has been our past conduct, that she will still calculate on our patience and submission till war is actually commenced.

SPEECH OF MR. GASTON,

OF NORTH CAROLINA,

ON

THE LOAN BILL,

DELIVERED IN THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES, FEBRUARY 18, 1815.

Mr. Chairman,

I fear I am about to engage in a very injudicious attempt. I fear that the patience of the committee is exhausted, and that it would be idle to hope for their attention. It was originally my wish to claim their notice at an early stage of the debate; but I found this wish was not to be effected but by a competition for the floor, and I thought such a competition not justified by the nature of the remarks which I had to submit. Under these impressions, I had made up my mind to wait until some favorable, unoccupied interval should be presented; and I should not now have presumed to anticipate other gentlemen, who seem disposed to address you, but for some extraordinary observations which have just been uttered, and which, in my opinion, demand immediate animadversion.

The object of the bill is to authorize a loan to the government of the United States. The precise proposition before you is, to declare what sum shall be borrowed; "twenty-five millions of dollars." Enormous as is the addition which is thus proposed to be made to our debts, could it be shown to be necessary to accomplish any purposes demanded by the honor and welfare of the country, it assuredly would meet with no opposition from me. Is a loan wanted, a revenue required, to enable the government to pay off its just engagements; to give security and protection to any part of our territory, or any portion of our citizens; to afford to our gallant navy—that precious relic of better days—such encouragement and extension as may enable it more effectually to vindicate our rights on the element where they have been assailed? —my voice and assistance shall be cheerfully rendered to obtain

them. Let the present proposition be withdrawn, and let it be moved to fill the blank with such sum as shall be adequate to supply any deficiency of revenue wanted for these purposes, and I will second the motion. Nay, sir, should the present proposition be rejected (for while it is pending a smaller sum cannot be moved), and none of those who are most conversant with the state of our finances, should come forward with a further proposition, I will myself undertake to move the sum which shall appear competent to effect all these objects.

But, sir, this enormous sum is wanted not for these purposes; it is avowedly not necessary, except to carry on the scheme of invasion and conquest against the Canadas. To this scheme I have never been a friend; but to its prosecution now, I have invincible objections, founded on considerations of justice, humanity, and national policy. These objections I wish to explain and enforce, and thus avail myself of an opportunity of discussing some of the most interesting topics which grow out of the alarming state of the nation. I fear that all I can do will avail nothing. But, sir, representing a respectable portion of the American people, who are suffering with peculiar severity from the pressure of this unfortunate and mismanaged war; who, with me, believe no good is to grow out of it, and who apprehend, from its continuance, evils, compared with which, all they have yet suffered are but trifles light as air, I should be unfaithful to them and myself, if I did not interpose my best efforts to arrest the downhill career of ruin.

In performing this duty, I shall certainly say the things I do think. Endeavoring to use such language only as is consistent with self-respect and decency towards those who differ from me in opinion, I mean freely to exercise the right which belongs to my situation. Right! did I say, sir? The expression is inaccurate. Once, indeed, there did exist in this house the right of free discussion. It was once deemed a constitutional privilege for every member to bring forward any proposition he deemed beneficial to the country, and support it by whatever arguments he could adduce; to offer amendments to the propositions of others, so as to render them, in his judgment, more unexceptionable; and to state the reasons of his dissent from any measure on which he was called to vote, and endeavor to impress his opinion on others. No doubt, a vast portion of the good people of this republic yet believe that such is the course of proceedings here. Little do they dream of the complicated machinery, by means of which every privilege, except that of thinking, is made to depend on the pleasure of the country, the whim of the majority. By certain interpolations into our practice, but which no where show their hideous front in our written code, the system of suppressing the liberty of speech is brought to a degree of perfection that almost

astonishes its authors. A gentleman wishes to bring forward an original proposition—he must first state it, and obtain permission from a majority of the house, to let it be considered, before he can show the propriety of adopting it, or ask even for a decision upon it. Thus is annihilated the right of originating a proposition. But a proposition is originated by others, it is passed through the ordeal of consideration, and he is desirous of amending its defects, or of exposing its impropriety. This is, perhaps, deemed inconvenient by the majority. It may give them trouble, or bring forward a discussion which they do not wish the people to hear, or detain them too long from their dinners—a new species of legerdemain is resorted to. The "previous question," utterly perverted from its original and legitimate use, is demanded; the demand is supported by a majority. In an instant all the proposed amendments disappear; every tongue is so fettered, that it can utter but ay or no, and the proposition becomes a law without deliberation, without correction, and without debate. And this process is called legislation! And the hall, in which these goodly doings are transacted, is sometimes termed the temple of liberty! Sir, this procedure must be corrected, or freedom is rejected from her citadel, and wounded in her very vitals.

Inconveniences also result to the majority, from this tyrannical exercise of power, sufficient, perhaps, to counterbalance all the benefits which can be derived from it. Gentlemen often complain, that the minority do not pursue the practice which is adopted by minorities elsewhere. In England, say they, the opposition address the house and the nation only on great fundamental questions, involving disputed principles, and do not hang on the skirts of every bill, fighting the ministry through all the details of their measures. Why is not the same course pursued here? The answer is obvious. Here the minority are not allowed to bring forward these great fundamental questions; they have no opportunity of showing their views, except such as may be casually afforded by some measure of the majority, on which they are good natured enough to allow debate. Unless they avail themselves of such a bill in every stage of it, as a peg on which to hang their observations, they must be utterly mute. Thus it happens, too, that there is frequently not any discernible connection between the topics discussed, and the subject supposed to be under debate.

Perhaps the very course I am pursuing is an apt illustration of these facts. Some weeks since I submitted to the house a resolution, which I thought eminently deserving of attention—a resolution, "that pending our negotiation with Great Britain, it is inexpedient to prosecute a war of invasion and conquest of the Canadas." This resolution could not be discussed, for the house would not vouchsafe to it a consideration. But as, on the propo-

sition now before you, debate is indulged, and has assumed a latitude that seems to permit every thing connected with the war, I am willing to embrace the occasion to support my favorite proposition, to which a regular hearing has been refused. Grateful even for this opportunity, I acknowledge the courtesy which has been shown me by the majority; sorely as I feel the degradation of indirectly using as a favor, what, as a freeman and the representative of freemen, I ought openly to enjoy as a right.

It is far from my design to enter into a particular inquiry as to the origin of this war, or as to its causes, whether technical or real. Its advocates, vieing with each other in zeal for its justification and continuance, do not precisely agree in opinion, as to its causes, or as to the objects for which it is to be prosecuted. The gentleman from Pennsylvania, who presides over your judiciary committee (Mr. Ingersoll), in an elaborate argument, seems desirous to prove (I am not certain which), either that the war is a consequence of the violation on the part of Great Britain of his favorite principle, "free ships make free goods," or is to result in the establishment of this principle. This comprehensive dogma the gentleman contends to be a part of the original unadulterated code of national law, consecrated by the treaty of Utrecht, strenuously asserted by Britain herself in her dispute with Spain, in the year 1737, recognized in her commercial treaty with France in 1786, and vitally essential to our maritime interests. The gentleman from Virginia, whom I yesterday heard with much pleasure (Mr. Jackson), dissents from his political friend, and declares that this maxim has never been asserted by our government, under any administration, as founded on the common law of nations. Although the gentleman from Virginia is in this respect unquestionably correct, yet it is not certain that the chairman of the judiciary committee is altogether erroneous in attributing to the administration an expectation of establishing by this war some such theory. That the neutral flag shall protect all from capture, is a very convenient doctrine for a nation frequently at war with an adversary of decidedly superior maritime strength. France, who, with occasional short intervals, has been for centuries at war with England, has very naturally wished to incorporate this doctrine into the law of nations. Her imperial master has adopted it as one of the elementary principles of his new maritime code, which he solemnly promulgated in his decree of Berlin, of November, 1806; and in support of which, he has used every violence and stratagem to array the nations of the world into one great maritime confederacy. At least as early as the infamous Turreau's letter of June, 1809, the executive of this country was perfectly apprized of such a confederacy, of the purposes which it was to uphold, and of the determination of France to bribe or

compel our accession to it. The decree of the great protector of the confederacy, of the date of April, 1811, though probably not issued till May, 1812, announced in language sufficiently distinct, that this claim had been so far complied with on our part, as to exempt from the further application of the penalties of disobedience. And our declaration of war, against the sole recusant of this imperial theory, was proclaimed by Napoleon to his senate, as a spirited and generous exertion, to vindicate the new religion of the flag, which, like the superstition of the sanctuary, was to protect every fraud and shelter every crime. Extravagant, therefore, as the positions of the gentleman from Pennsylvania may be thought by the far greater part of this committee, they may have more countenance from the administration, than is generally suspected.

The gentleman from Pennsylvania has assigned another cause for the war, in which he has obtained the concurrence of several of his friends—the instigation, by the British government, of Indian wars. Although, sir, this theme of popular declamation has almost become trite ; although the tomahawk and the scalping-knife have been so often brandished with rhetorical ambidexterity, that their exhibition almost ceases to excite interest, yet far be it from me to think or speak lightly of the cruelties of savage warfare, or to conceal my utter abhorrence and detestation of them. But it is a different, very different question, whether the Canadians have armed the Indians to join in defence against a common invader, or had, previously to war, instigated them to hostilities against us. This last charge I do not believe—no evidence has been given to warrant it, that I have yet heard. Over the affair of Tippecanoe, the commencement of Indian war, there hovers a mystery which ought to be dissipated, but which the government will not dispel. I have sought, honestly sought, for information. Of official information there is little or none. From private sources, not likely, in this respect, to mislead (for they are friendly to this war, and connected with the western interest and feeling), I learn, that the great cause of Indian hostilities is to be found where experience and history would prompt us to look for it—is to be found in our cupidity for their lands, and their jealousy and distrust of our superior intelligence and force. Indian wars have been, until a few years back, almost uninterrupted in this country, both before and since the revolution. They need no other instigations than are to be found in the inconsistent views, interests, claims, passions, and habits of neighboring, yet distinct races of people.

Sir, general Harrison's treaty of November, 1809, was the mine of the great Indian explosion. The Indians complained, I know not how justly, that in that treaty they were cheated of lands which the parties to it had no right to convey, and never meant to

convey. There are gentlemen in this legislature who know that Tecumseh immediately afterwards avowed his fixed purpose to vindicate by force, and by a union of the red men, the rights of his tribe and the menaced independence of the whole race. And we all know (the fact is on record) that, shortly after this treaty by the British, the governor-general of Canada caused it to be officially communicated to the government of the United States, that the Indians were meditating hostile designs.

The British orders in council were, after all, emphatically and exclusively the cause of war. And had it not been for very many weighty considerations, to be found in the state of the world, in the nature of the war in Europe, out of which proceeded this violation of neutral rights; in the conduct of the other mighty belligerent, her injuries, her menaces and intrigues, and in the peculiar condition of this country, actually growing into unexampled prosperity, under the very state of things of which we complained;—had it not been for these, and considerations like these, that, trumpet-tongued, warned us from the gulf into which we were about to plunge, the orders in council would have justified the resort to war. At all events, they formed what might be termed a sufficient technical cause of hostilities, much better than often figures, with conspicuous effect, in the manifestos of princes, under the specious names of justice, independence, and violated rights. But, sir, scarcely had the fatal step been taken, and the destinies of our nation risked on the fortune of the sword, when the obnoxious orders were revoked, the causes of war removed, and an honorable opportunity afforded of returning to the happy state of peace, commerce, and successful enterprise. How grateful must not the executive of a country, whose policy was fundamentally pacific—how grateful must it not have been for this happy rescue from the horrors of war! How rejoiced, that all had been effected without a struggle, which it was the object to obtain by a bloody and precarious contest! Exulting to show, that when it unsheathed the sword, no passion but duty urged the reluctant deed, surely it hastened to return the unstained weapon to the scabbard, and extend the blessed olive-branch of peace. Was it so? Sir, I never can think of the conduct of the executive upon this occasion, without mingled feelings of surprise, regret, and anger. It cannot be accounted for but by an infatuation the most profound—an infatuation which is not yet dissipated, and which should fill every breast with apprehensions of that dreadful result, which, in the wisdom of Providence, is preceded by the "darkened councils" of rulers. But it is entirely a mistake, says the gentleman from Pennsylvania. The orders in council never were revoked; they were indeed withdrawn, but under a declaration, asserting the right to reënact them, should the violence of

France, acquiesced in by America, renew the necessity for them. Will the administration, sir, bring forward this excuse? Will they take this ground? No, sir, they cannot; they dare not. The president has told the nation, that the revocation of the orders was substantially satisfactory; in his peculiar phraseology, "the repeal of the orders in council was susceptible of explanations meeting the just views of the government." How could he do otherwise after his proclamation of the 2d of November, 1810, declaring the French edicts so revoked as to cease to be injurious to our rights; a proclamation founded solely on the letter of the duke de Cadore, of the 5th of August, promising a revocation. Does the gentleman recollect the celebrated "Bien entendu," or proviso annexed to this letter: "Provided, that in consequence of this declaration, the British government shall revoke their orders in council, and renounce their new principles of blockade, or America shall cause her rights to be respected, conformably to the act which you have communicated?" Does the gentleman remember the tortuous and labored efforts of Mr. Secretary Monroe, to explain this proviso into a condition subsequent? to prove that it was designed only to exert the right of France to reënact these decrees if Britain should persist in her orders, and we forbear from resisting them? Such a condition, subsequently annexed to a promised revocation of the French decrees, had no effect to impair its force—but the same annexed in terms to the actual revocation of the British orders, renders it entirely null! No, sir, the executive cannot take this ground; his direct friends will not take it for him. In the emphatic language of the eloquent Junius, this would, indeed, "resemble the termagant chastity of a prude, who prosecutes one lover for a rape, while she solicits the lewd embraces of another."

But can it be urged, say the gentlemen, that the revocation of the orders in council removed all our causes of complaint, and left us nothing more to demand of the enemy? No, sir, this is not urged. But it is contended, that as the revocation of the orders in council removed the cause of war, hostilities should instantly have been suspended, and a fair, manly effort made to settle by negotiation all unadjusted differences which had not caused the war. A question of much importance and delicacy remained to be settled in relation to the search for British seamen on board our merchant vessels, and the occasional impressment of Americans. Under every administration of our country, this question had excited great interest, and been attended with much difficulty. Of late, indeed, it had in some degree lost its interest, and partly because of the comparative rare occurrence of the practice. The restrictive anti-commercial system had expelled native and foreign seamen in vast numbers from our country, and almost removed the

temptations to an exercise of what the British claimed as a maritime right. For five years before the war, the dispute had, in fact, slept. Subjects more important pressed themselves on our nation, and while these pressed, that was postponed as a matter for future arrangement. But out of these new subjects a controversy arose which issued in war. It had scarcely been declared before the matter in controversy was arranged to our satisfaction, by the voluntary act of the enemy. What was our plain, obvious course—the course of duty and of policy? Sheath the sword until it is ascertained whether the dispute, which has been laid aside for future arrangement, and which, in consequence of the adjustment of more pressing concerns, is now properly presented to notice, can or cannot be amicably settled. Even tyrants pronounce war the "*ultima ratio regum*," the last resort of princes. Nothing can justify the exercise of force but the inability to obtain right by other means.

You had not supposed your just claims on the subject of seamen unattainable by negotiation, or you would not have reserved them for years as a subject for negotiation—and if they be thus attainable, how will ye answer to God and the country for the blood and treasure uselessly, criminally expended? This mode of thinking, sir, seems to me very straight, and quite in accordance with good old notions of practical morality; besides, it is the incumbent duty of him who seeks justice first to render it.

Whatever our claims on Great Britain might have been in relation to seamen, she was not without her claims on us. At a time when her floating bulwarks were her sole safeguard against slavery, she could not view, without alarm and resentment, the warriors who should have manned those bulwarks pursuing a more gainful occupation in American vessels. Our merchant ships were crowded with British seamen; most of them deserters from their ships-of-war, and all furnished with fraudulent protections to prove them American. To us they were not necessary; they ate the bread and bid down the wages of native seamen whom it was our first duty to foster and encourage.

To their own country they were necessary, essentially necessary. They were wanted for her defence in a moment of unprecedented peril. Ought we not, then, while seeking to protect our own seamen from forced British service, to have removed from her seamen the temptation to desert their country and to supplant ours at home? Why need I ask the question? Your seaman's bill, as it is called, enacted into a law since the war, is an acknowledgment that this ought to have been done: however deceptive some of its provisions may appear, its very principle is to restore to Britain her seamen, and save our own from her service. Unless you believed this principle right, it was the meanest of degradations, at such a

time to pass such a law; and if it was right, then you had justice to render, as well as to seek. Had you pursued this plain path of right, had you suspended hostilities, you would have consulted also the true policy of your country. An unconditional proposition for an armistice upon the revocation of the orders, or an unconditional acceptance of the offer of an armistice, would have passed for magnanimity. The disgraces which have since foully distained our military character were not then anticipated. The world would have believed, your enemy would have believed, that you suspended your career of conquest because the war had owed its origin not to ambition, but to duty—because you sought not territory, but justice—because you preferred an honest peace to the most splendid victory. With the reputation of having commanded, by your attitude of armor, a repeal of the offensive orders, you would have evinced a moderation which must have secured the most beneficial arrangements on the question of seamen.

But, sir, this was not done. No armistice could obtain the approbation of the executive, unless it was preceded by an abandonment, formal or informal, of the British claim to search for their seamen on board our merchant vessels. As an evidence of this abandonment, the exercise of the claim must, by stipulation, be suspended during the armistice, and this suspension was to be the price of its purchase. Even without an armistice, no "arrangement" was to be deemed a fit subject for negotiation, which should not be predicated on "the basis" of an exclusion from our vessels, by our laws, of their seamen, and an absolute prohibition of search by their officers. This, sir, was taking very lofty ground; but at that moment the Canada fever raged high, and the delirium of foreign conquest was at its acme. In a few weeks the American flag was to wave triumphant on the ramparts of Quebec. The proposition for an armistice from the government of Canada was utterly inadmissible. In the language of our secretary of state, it wanted reciprocity. "The proposition is not reciprocal, because it restrains the United States from acting where their power is greatest, and leaves Great Britain at liberty, and gives her time to augment her forces in our neighborhood."

Mr. Russell did condescend to offer an armistice to the enemy, upon the condition of yielding as preliminary, even a suspension of arms, all that could be extorted by the most triumphant war. But even he, in his pacific proposition, could not refrain from exulting at the glorious conquests, that would inevitably be made if submission was refused or delayed. "Your lordship is aware of the difficulties with which a prosecution of the war, even for a short period, must necessarily embarrass all future attempts at accommodation. Passions, exasperated by injuries; alliances or conquests on terms which forbid their abandonment, will inevitably

hereafter imbitter and protract a contest which might now be so easily and happily terminated." I cannot forbear, sir, from one remark at the 'awful squinting' in this letter, at an alliance with France. Gentlemen are sensitive when the possibility of such a connection is intimated. The very suspicion of such a design in the cabinet is viewed as a calumny. Here the accredited agent of the American executive proclaims such a connection, such an alliance as inevitable—proclaims it in an official communication to the public enemy. The declaration is laid before congress and the people, by the president, unaccompanied by any disavowal. The minister is not censured. For his very conduct in this employment, he is raised to the highest grade of foreign ministers; and, in spite of the reluctance of the senate to confirm his nomination, he is pressed upon them by the president until their assent to his appointment is extorted. I dwell not upon this topic, for I confess to you the honest fears which once congealed my heart are now dissipated. The sun of national freedom has burst forth from behind the portentous eclipse that "with fear of change" had perplexed the darkened world. Napoleon, no longer invincible, stripped of the false glare which splendid crime threw around his character, is no longer eulogized as "supereminent," but denounced by the champions of administration as an "usurper." No one courts the friendship of a fallen tyrant!

It is not for me to say in what manner the dispute about seamen is to be settled. On this subject I have no hesitation, however, in giving my general sentiments. It is the duty of this government to protect its seamen (I mean its native seamen) from the forced service of any and every power on earth, so far as the strength of the country can obtain for them protection. True it is, that in my opinion the number of impressed Americans bears no reasonable proportion to the number alleged, but their number has been large enough to render the grievance a serious one; and be they more or less, the right to the protection of their country is sacred, and must be regarded. The government would forfeit its claims to the respect and affection of its citizens, if it omitted any rational means to secure the rights of American seamen from any actual violation. Seek to obtain this security by practical means. If you cannot by substitute obtain an abandonment of the right or practice to search our vessels, regulate it so as to prevent its abuse—waiving for the present, not relinquishing your objections to the right. Do all that can fairly be asked of you to supersede the necessity of the practice. When this is done, and you should nevertheless fail; when war is rendered necessary to obtain a practical and reasonable security for American seamen against the abuses of impressment, then, sir, that war is just. Whoever may question its expediency, none, who admit

that wars may ever be justly waged, can feel any conscious scruples in yielding it support.

This, sir, is no late opinion of mine. It has been long and publicly avowed; not, indeed, as a pledge to my constituents, as my friend and colleague (Mr. Murphy) has remarked—we do not deal in pledges—but because it is my habit to be frank when no duty commands concealment. Nor is it strange that I should feel attached to the rights of American sailors. I am a native of the seaboard. Many of the playmates of my infancy have become the adventurous ploughmen of the deep. Seafaring men are among my strongest personal and political friends. And for their true interests—their fair rights—I claim to feel a concern as sincere, and a zeal as fervent as can be boasted by any gentleman from the interior, or from beyond the mountains, who has heard of them, but known them not.

Has the prosecution of your scheme of invasion and conquest against the Canadas a tendency to secure these rights and advance these interests? That, sir, is a momentous question, on which it is the duty of every man in authority to reflect dispassionately, and with a fixed purpose to attain the truth. Unless this tendency be manifest, and morally certain, every motive, which can be addressed to an honest heart and intelligent mind, forbids its prosecution at the present moment. Make a fair comparison of its certain or probable ills with its possible gains, and then pronounce the sentence which justice, humanity, and policy demand; and a suffering nation will bless your decision.

There is something in the character of a war made upon the people of a country, to force them to abandon a government which they cherish, and to become the subjects or associates of their invaders, which necessarily involves calamities beyond those incident to ordinary wars. Among us some remain who remember the horrors of the invasion of the revolution; and "others of us have hung with reverence on the lips of narrative old age, as it related the interesting tale." Such a war is not a contest between those only who seek for renown in military achievements, or the more humble mercenaries "whose business 'tis to die." It breaks in upon all the charities of domestic life, and interrupts all the pursuits of industry. The peasant quits his plough, and the mechanic is hurried from his shop, to commence, without apprenticeship, the exercise of the trade of death. The irregularity of the resistance which is opposed to the invader, its occasional obstinacy and occasional intermission, provoking every bad passion of his soldiery, is the excuse for plunder, lust, and cruelty. These atrocities exasperate the sufferers to revenge; and every weapon which anger can supply, and every device which ingenious hatred can conceive, is used to inflict vengeance on the detested foe.

There is yet a more horrible war than this. As there is no anger so deadly as the anger of a friend, there is no war so ferocious as that which is waged between men of the same blood, and formerly connected by the closest ties of affection. The pen of the historian confesses its inability to describe, the fervid fancy of the poet cannot realize, the horrors of a civil war. This invasion of Canada involves the miseries of both these species of war. You carry fire and sword amongst a people who are "united against you," say your generals, "to a man"—amongst a people who are happy in themselves, and satisfied with their condition, view you not as coming to emancipate them from thraldom, but to reduce them to a foreign yoke—a people long and intimately connected with the bordering inhabitants of our country by commercial intercourse, by the ties of hospitality, by the bonds of affinity and of blood—a people, as to every social and individual purpose, long identified with your own. It must be that such a war will rouse a spirit of sanguinary ferocity, that will overleap every holy barrier of nature and venerable usage of civilization. Where will you find an authenticated instance of this ferocity, that more instantaneously compels the shuddering abhorrence of the heart, than the fact asserted by my eloquent friend from New Hampshire (Mr. Webster), "the bayonet of the brother has been actually opposed to the breast of the brother." Merciful Heaven! that those who have been rocked in the same cradle by the same maternal hand—who have imbibed the first genial nourishment of infant existence from the same blessed source, should be forced to contend in impious strife for the destruction of that being derived from their common parents! It should not be so! Every feeling of our nature cries aloud against it!

One subject is intimately connected with this Canadian war, which demands the most thorough and deliberate examination. I tremble to approach it thus incidentally, lest I injure the cause of humanity and truth, by a cursory vindication. And yet I dare not altogether omit it, because I fear an opportunity of full consideration will not be presented, and it is of an urgency and a magnitude that forbid it to be overlooked. I mean, sir, the falsely-called system of retaliation, which threatens to impart to the war a character of barbarity which has not its parallel in the modern annals of Christendom. Twenty-three persons of your invading army, who were taken prisoners by the enemy at the battle of Queenstown, in Canada, have been sent to England as British subjects, to be tried for treason. To deter the enemy from executing the law upon these unhappy men, our executive has ordered into close custody an equal number—not of American citizens invading our country (this would, indeed, be retaliation)—but of British prisoners, who have committed no crime. It is avowed that

these shall be put to instantaneous death, if the men sent to England should be convicted and executed. The British government has proceeded, in return, to confine a corresponding number of Americans, as hostages, for the safety of these British prisoners, under the same determination and avowal. This has been again retaliated on our side, and the retaliation retorted by the enemy; so that an indiscriminate and universal destruction of the prisoners on each side is the menaced consequence of the execution of one of the presumed Englishmen, ordered home for trial. Before we enter upon this career of cold-blooded massacre, it behoves us, by every obligation which we owe to God, to our fellow men, and to ourselves, to be certain that the right is with us, or that the duty is imperative. If, in a moment of excited feeling, we should heedlessly enact the fatal deed which consigns thousands of the gallant and the brave Americans and Britons to an ignominious death, and should afterwards discover that the deed was criminal; that the blood of the innocent is upon us, and the cries of their fatherless infants have ascended against us to the throne of the Most High, how shall we silence the reproaches of conscience; how atone for the wide-spread and irreparable mischief; or how efface from the American name the infamous stain that will be stamped upon it? With motives thus awfully obligatory to a correct decision, we are in imminent danger of error, from causes of which we are not aware. A portion of our population, inconsiderable in number, as compared with the whole mass, but influential, because of their activity, violence, boldness, and their control of the popular presses,—I mean, sir, that part of naturalized citizens, who, not content with pursuing the private occupations of industry, undertake to manage the affairs of state, or teach us how they should be managed,—have systematically and zealously labored to disseminate false principles, and excite prejudices and passions calculated to mislead the public mind.

The law against the alienation of allegiance is no relict of tyranny; it is founded in the analogy of nature, and essential to the harmony of the world. There is a striking similitude between the duties of a citizen to his country, and those of a son to his father. Indeed, sir, what is the word country but a comprehensive phrase, embracing all those charities which grow out of the domestic relations of parents, children, kindred and friends? When the boy has attained manhood, and the father's care is no longer necessary to guard him from daily harms, he is at liberty to quit the parental roof, to become the inmate of another family, there form connections essential to his happiness, and take upon himself obligations of respect and tenderness, as the adopted son of other parents. But is nature's first great bond utterly severed? Can he return at the bidding of his new friends, ravage and de-

stroy the home of his childhood, and pollute it with the life-blood of those from whom he received life? Would this be but an ordinary trespass, a common homicide, which provocation might extenuate, excuse, or even justify? An association, sir, formed by a resurrection of the wretches who have died on the gibbet, would disdain such a principle in their code. What is the jargon of modern expatriation, but the same principle interpolated into the code of nations? The peace and independence of every state, and of none more than ours, demand that the citizen should not be released from the just claims of his country by the interference of foreign powers. Give to such interference the effect, and every nation is made dependent upon the arbitrary exercise of a foreign right to control and regulate its vital concerns. The Spanish dominions to the south, and the British territories to the north, have tempted from us many of our boldest spirits. Let them go—let them there enjoy every privilege, if they can find it, which in our happy country is given to the fugitive European; every privilege which is essential to their comfort. Let them pursue in tranquillity their industrious occupations—realize the profits of enterprise, and be protected from every invasion of individual right. In return for these advantages, let them, like the Europeans whom we naturalize, render a cheerful obedience to the laws, perform every social duty which is assigned to them, and contribute to the support of the government a fair proportion of their gains. But permit them not to forget the country which gave them birth and protected their infancy. Suffer them not with impunity to be converted into hostile tribes, whose numbers may be swelled from day to day by the factious, the restless, and the criminal, who have but to pass an ideal line, and the duty of obedience is converted into the right to destroy. Unless I am greatly deceived, the law of England must be suffered to have its course with the individuals, if natives of England, and migrating to us since the revolution, who are sent thither for trial. Whether they ought to be executed, if convicted, is a very different question. Considering the intimate connection which common origin, language, and manners, and a long and intimate commerce has heretofore induced between the countries, and the consequent interchange of their inhabitants; remembering, too, that general laws are often cruel in their application to particular cases, the executive authority in that country is bound by the strongest motives to consult the dictates of humanity, and forbear the too rigorous exercise of right. But if these considerations should not there prevail, and the severe penalty of the law of treason is exacted, as of right it may be, shall we, without right, without the semblance of law, coldly murder those who are in our power, who have committed no treason against us, and against whom crime is not pretended? Is this

called retaliation? Britain executes British traitors serving in the American army, regularly tried and convicted of treason, and we, in return, execute—whom? American traitors, serving in the British army, and convicted of treason? No, but faithful, loyal men, bearing arms in the cause of their native country! tried by no law! offenders against no law! Sir, the pretension is monstrous. I have met with no instance of such a pretension being ever asserted in a civilized country. Did Philip, of Spain, retaliate in this way for the execution of Dr. Story? Did France retaliate for the execution of colonel Townly? Did Britain thus retaliate for the execution of the French emigrants taken at Quiberon? I have heard it said, that Napper Tandy, an Irishman, naturalized in France, was surrendered upon a threat of retaliation from France. I doubt the fact; the only evidence of it is in a note to an evidently partial and one-sided account of his trial, in a collection of Curran's speeches. In no authentic register have I been able to find it. But if it were true, the note itself states, that the ground on which he was demanded, was not that he had been naturalized by France, and therefore not liable to be executed for treason; but because he had been unjustly seized at Hamburg, a neutral territory, and ought to be returned. The bold Wolfe Tone, Tandy's associate, and, like him, an officer of France, but not, like him, arrested in a violated neutral territory, was neither demanded nor delivered. Condemned to death, he changed the mode of its execution by committing suicide. And shall my country, claiming to excel in humanity, as it excels in freedom, the nations of Europe, shall it be the first to avow a monstrous, unfounded pretension, and vindicate it by innocent blood? Shall it teach a lesson of barbarity to the hardened chieftains of slaughter, of which they were before ignorant? Shall it seek to protect foreigners from the vengeance of their sovereigns, at the cost of immolating its own citizens? Shall it doom a revolutionary Winchester, or a gallant Winder, to a shameful death, because it cannot save alien traitors from their legal fate?

Think, for a moment, sir, on the consequences, and deem it not unworthy of you to regard them. True courage shuts not its eyes upon danger, or its result. It views steadily, and calmly resolves whether they ought to be encountered. Already has the Canadian war a character sufficiently cruel, as Newark, Buffalo, and Niagara can testify. But when the spirit of ferocity shall have been maddened by the vapor steaming from the innocent blood that shall stagnate around every depot of prisoners, then will it become a war, not of savage, but of demoniac character. Your part of it may, perhaps, be ably sustained. Your way through the Canadas may be traced afar off, by the smoke of their burning villages. Your path may be marked by the blood of their furious

peasantry. You may render your course audible by the frantic shrieks of their women and children. But your own sacred soil will also be the scene of this drama of fiends. Your exposed and defenceless seaboard, the seaboard of the south, will invite a terrible vengeance. That seaboard which has been shamefully neglected, and is at this moment without protection, has been already invaded. But an invasion, after the war shall have assumed its unmitigated form of carnage, and woe, and wickedness, must be followed with horrors which imagination can but faintly conceive. I will not trust myself to tell you all I feel, all my constituents feel, upon this subject; but I will say to the gentleman from Pennsylvania, that when he alludes to the probability that an intestine foe may be roused to assassination and brutality, he touches a chord that vibrates to the very heart.

Yes, sir, I live in a state whose misfortune it is to contain the materials out of which may be made such a foe—a foe that will be found every where—in our fields, our kitchens, and our chambers; a foe, ignorant, degraded by habits of servitude, uncurbed by moral restraints, whom no recollections of former kindness will soften, and whom the remembrance of severity will goad to frenzy; from whom nor age, nor infancy, nor beauty, will find reverence or pity; and whose subjugation will be but another word for extermination. Such a foe, sir, may be added to fill up the measure of our calamities. Let me not be misunderstood; let no gentleman misconceive my meaning. Do I state these consequences to intimidate or deter you? I think better of my countrymen. I hope and believe, in the language of Wilkinson to Provost, the Americans will not be deterred from pursuing what is right, by any dread of consequences. No, sir, I state them to rouse your attention and waken your scrutiny into the correctness of the course you are pursuing. If, on mature deliberation, you are sure that you are right, proceed, regardless of what may happen:

> "Justum et tenacem propositi virum—
> Si fractus allabatur orbis,
> Impavidum ferient ruinæ."

But reflect well, I conjure you, before reflection is too late. Let not passion or prejudice dictate the decision. If erroneous, its reversal may be decreed by a nation's miseries, and by the world's abhorrence.

Mr. Chairman, turning from the gloomy view of the effects of the Canada war, my attention is arrested by another consequence likely to follow from it, on which I will not long detain you, but which is not less interesting nor less alarming. In proportion as gentlemen become heated in their pursuit of conquest, and are baffled in their efforts to overtake it, the object becomes more val-

nable in their estimation, and success is more identified with their pride. The conquest of Canada, contemplated as an easy sport, without a fixed design to keep it to secure, or surrender it to purchase rights, has from its difficulty swelled into an importance which causes it to be valued above all rights. Patriotism was relied on to fill the ranks of the invading army; but it did not sufficiently answer the call. These ranks, however, must be filled. Avarice is next resorted to. The most enormous price is bid for soldiers, that was ever offered in any age or country. Should this fail, what is the next scheme? There is no reserve or concealment. It has been avowed that the next scheme is a conscription. It is known that this scheme was recommended, even at this session, by the war department; and that it was postponed only to try first the effect of enormous bounty. The freemen of this country are to be draughted from the ranks of the militia, and forced abroad as military machines, to wage a war of conquest! Sir, I have been accustomed to consider the little share which I have in the constitution of these United States, as the most valuable patrimony I have to leave to those beings in whom I hope my name and remembrance to be perpetuated. But I solemnly declare, that if such a doctrine be ingrafted into the constitution, I shall regard it as without value, and care not for its preservation. Even in France, where man, inured to despotism, has become so passive and subservient, as almost to lose the faculty of feeling oppression, and the capacity to perceive it, even there, sir, the tyranny of conscription rouses him to the assertion of his innate freedom, to struggle against slavery in its most malignant form. No, sir, not the dread of all the severe punishments ordained for refractory conscripts, not the "peine du boulet," the "travaux publiques," nor death itself, can stupefy him into seeming submission. He yields only to absolute force, and is marched to the field of glory manacled and handcuffed. And is such a principle to be introduced into our benign, our free institution? Believe me, the attempt will be fatal—it cannot succeed but by military terror. It will be the signal for drawing the sword at home.

Americans are not fitted to be the slaves of a system of French conscription, the most detestable of the inventions of tyranny. Sir, I hear it whispered near me, this is not worse than the impressment of seamen. It is worse, infinitely worse. Impressment forces seamen to serve in the public ships of their country, instead of pursuing their occupation in the merchant service. It changes their employment to one more rigorous, of longer continuance, of greater danger. But it is yet employment of the same kind. It is yet employment for which they are fitted by usage and education. But conscription is indiscriminate in the victims of its tyranny. The age, not the pursuit of the conscript, is the sole criterion

of his fitness. Whatever be his habits, whatever his immediate views, whatever his designed occupation in life, a stern mandate tears him from the roof of his father, from the desk, the office, the plough, or the workshop, and he is carried far from home to fight, in foreign climes, the battles of ambition.

But, sir, if conscription were not worse than impressment, I should not lose my objection to it. I am not prepared to assent to the introduction of either conscription or impressment into my country. For all the British territories in the western world, I would not fight for sailors' rights—yet rivet on our citizens a French conscription! Fight for rights on the ocean, and annihilate the most precious of all rights at home—the right of a freeman never to be forced out of his own country! How alarming is the infatuation of that zeal, which, in its ardor for attaining its object, tramples in the dust objects of infinitely higher price!

What is the probability of success in this scheme of conquest, is a topic on which I mean not to enlarge. It is not necessary that I should, for others have ably discussed it. That you may take Upper Canada, that you may overrun the lower province, I believe; but that you will take Quebec, while the mouth of the St. Lawrence is commanded by a hostile fleet, I cannot believe; if an opposite thought gets possession of my imagination, I find it springing from that impulse of the heart which makes me fancy victory perched on the standard of my country, and not the result of an exertion of the understanding. But, sir, if you should conquer the Canadas, subdue Nova Scotia, and possess yourself of all the British territories in America; if, after impoverishing your country by ruinous loans, and grinding down your people by oppressive taxes, you should wade at last through the horrors of invasion, massacre of prisoners, a servile war, and a military conscription, to the now darling object of your wishes, I pray you, sir, what is then to be done? What do you design to do with the conquered territory? We will keep it, say the gentlemen from Vermont and Pennsylvania (Mr. Bradley and Mr. Ingersoll). We will keep it, because it is an object with our people, because it will keep off Indian wars, and retribute us for the wrongs we have sustained. I believe, indeed, that, if conquered, there will be a powerful party to the north and west that will not consent to part with it, with whom it is an object. But how shall it be kept? As a conquered province? To retain it as such against the efforts of an exasperated, though conquered people within, and the exertions of a powerful, proud, and irritated enemy without, that enemy master of the sea, always able to invade and succor the invaders, will require a military strength and a pecuniary expenditure not less continued or less in amount than were demanded to take it. Such a conquest is never finished; when nominally effected, it is to be begun.

But we will incorporate it into the Union—ay, this would be indeed a pleasant result. Let my southern friends—let gentlemen who represent slave-holding states attend to this. How would this project take at home? What would their constituents give to have half a dozen new states made out of the Canadas? It is, besides, so notable an expedient for strengthening the nation, and so perfectly in accordance with the principles of our form of government. We are to force men into an association, the very life of which is freedom, and the breath of that life unrestrained choice! And to give vigor to the nation, we are to admit into its councils, and into a free participation of its power, men whose dislike of its government has been strengthened into abhorrence by the exasperations of war, and all whose affections are fixed upon its enemy! But, at all events, you are to keep the Canadas. What, then, will you do about sailors' rights? You will not be a jot nearer to them then, than you are now—how will you procure them, or seek to procure them? Will you then begin in good earnest to protect or obtain them by naval means? Would it not be advisable to attend to this declared object of the war now, rather than wait until after the Canadian scheme is effected?

Perhaps you mean to keep Canada and abandon sailors' rights. If so, why not avow to the people that it is conquest you fight for, and not right? But perhaps it is designed, when the conquest is effected, to give it back to Britain as an equivalent for the cessation, on her part, of some maritime right—for the privilege that our ships shall not be searched for British sailors. On this question you may make an arrangement practically securing all we ought now to contend for. You will, I hope, make it in the pending negotiation. But that by a surrender of Canada after it is conquered you may purchase from her a disavowal or relinquishment of the right, no man can believe who understands either the views or the prejudices of that people. They believe the right essential to their naval existence, to deter their seamen from general desertion. All classes in that country so regard it—we know there is not a difference of opinion among any description of politicians in the kingdom upon this subject. If they have any jealousy of you (and I believe some of them have), it is not a jealousy of your territorial extent, but of your fitness to become their commercial and naval rival. Can it be believed, then, that they would compromise in a surrender of a claim, which, surrendered, in their judgment, weakens them, and invigorates you where alone they are apprehensive of a competition, for the sake of preventing an accession to your territory which extends your limits, while it takes away from your strength? Indulge no such delusion; were Canada a thousand times more important to Britain than it is, it were yet of less value than her naval power. For the

sake of it she would never yield a principle on which that naval power depends. No, sir, the return of conquered Canada, even with the hoped-for agency in your favor of the Russian emperor, would not weigh a feather in the scale against what she deems her first great national interest.

As it regards, too, these fancied exertions of Russia in our favor, gentlemen surely deceive themselves. However attached Russia may be to the most liberal principles of commercial intercourse, she never will array herself against the right of the sovereign to compel the services of his seafaring subjects. On this head her policy is not less rigorous (to say the least), than that of England. I will not be more particular. A short time will probably show the grounds of my belief.

But, sir, among the reasons for prosecuting the invasion of Canada, one has been gravely stated of a very peculiar kind. Canada, says a gentleman from South Carolina (Mr. Calhoun), should be invaded to protect our frontiers and seaboard from invasion—it is the most economical and effectual method of defence. Although this consideration presents nothing very splendid to our view, yet it would be worth all other reasons for the invasion if it were founded on fact. But ask the people on your frontiers and on your seaboard, and what will they say? They will tell you, that it is the invasion of Canada alone which endangers them. The most effectual defence to them would be an abandonment of your scheme. Sir, an invasion of the United States, but for the purpose of diverting your forces from Canada or retorting on you the distresses of war, cannot enter into the scheme of British or Canadian policy. It is not to be prosecuted, but at vast inconvenience and expense, with great loss of useful soldiers, under a certainty of ultimate failure, and without hope of glory or gain. The Canadian yeomanry, freed from the terms of invasion, will cheerfully resume their peaceful occupations; and such of the British regulars as are not required for ordinary garrison duty, instead of being employed in a miserable, predatory, yet destructive border warfare, will be sent to mingle in the European strife where renown and empire are the mighty stake.

Surely this is emphatically the age and the government of paradox. A war for "free trade" is waged by embargo and prohibition of all commercial intercourse; "sailors' rights" are secured by imprisoning them at home, and not permitting them to move from place to place within their prison but by a license from a collector like a negro's pass, and obtained on the security of a bondsman; and our frontiers and seaboard are to be defended by an invasion of Canada, which can alone endanger an attack!

But the real efficient argument for perseverance in the scheme of Canadian conquest has been given by the gentleman from

Tennessee (Mr. Grundy.) We made the war on Britain, says the gentleman, and shall we restrict ourselves to defensive measures? For what purpose was war declared if we do nothing against the possessions of the enemy? Yes, sir, it is the consideration that this war was originally offensive on our side, that creates the, I fear, insuperable obstacle to our discontinuance of it.

It were vain to lament that gentlemen are under the influence of feelings which belong to human nature. It would be idleness to declaim against the sinfulness or the folly of false pride. All must admit that it is one of the greatest efforts of magnanimity to retrace a course publicly taken, and in the correctness of which reputation is staked. If honorable gentlemen could but perceive that this difficulty is one of pride only, and of pride opposing their country's best interests, I know that they could, and believe many of them would, make the effort. Painful as may be the acknowledgment of political error, yet, if they clearly saw that either this humiliation must be endured, or the nation ruined, they could not hesitate in their choice between such alternatives. But, sir, I wish not to present such alternatives to their election—so difficult is it to produce a conviction against which the pride of the heart rebels, that I will not attempt it. Gentlemen are not called on to retract. They may now suspend the execution of their scheme of invasion without an acknowledgment of its error. They may now, without humiliation, restrict themselves to defence, although the war was, in its origin, offensive. A second favorable opportunity is presented of restoring tranquillity to our once happy country. The first, the revocation of the orders in council, was suffered to pass unimproved. Let not this be lost; a third may not shortly occur. Your enemy has invited a direct negotiation for the restoration of peace. Your executive has accepted the offer, and ministers have been appointed to meet the commissioners of the opposite party. This circumstance ought to produce an entire and essential change in your policy. If the executive be sincere in the acceptance of this proposition, he must have acted on the hope that an amicable adjustment of differences might be made. And while there is such a hope, such a prospect, on what principle can you justify invasion and conquest? Force is the substitute, not the legitimate coadjutor of negotiation. Nations fight because they cannot treat. Every benevolent feeling and correct principle are opposed to an effusion of blood, an extension of misery, which are hoped to be unnecessary. 'Tis necessity alone which furnishes their excuse: do not then, at the moment when you avow a belief, a hope at least, that such necessity exists not, pursue a conduct which, but for its existence, is inhuman and detestable. Besides, sir, if you are earnest in the wish to obtain peace from the Gottenburg mission, suspend in the mean time offensive operations, which cannot facilitate, and may

prevent the accomplishment of your object. Think you that Britain is to be intimidated by your menaced invasion of her territories? If she had not learned by experience, how harmless are your threats, she would nevertheless see but little cause for fear. She knows that the conquest cannot be completed in one, nor in two campaigns. And when she finds that every soldier whom you enlist, is to cost you, in bounty alone, upwards of one hundred guineas, she will perceive that the war is more destructive to your finances, the great source of military strength, than to her territories. The blow aimed at her, recoils upon yourselves. But the exasperations which must result from the wrongs mutually inflicted in the course of the campaign, may have a very injurious effect upon the disposition to pursue pacific efforts. They will be apt to create a temper on each side, unfavorable to an amicable arrangement.

In truth too, sir, you are not prepared for such a campaign, as in honor and humanity you can alone permit yourselves to carry on. Suppose by the month of May or June, you raise your men. What are they? Soldiers, fitted to take care of themselves in camp, and support the reputation of your armies in the field? No; they are a mere rabble of war recruits: march them to Canada, and pestilence will sweep them off by regiments and brigades, while the want of discipline will unfit those whom pestilence spares, for an honorable contest with an experienced foe. Instead, therefore, of the hurry and bustle of filling your ranks with recruits, and rushing with them into Canada, attend rather to the training and improvement of those now in the service. Make soldiers of them; by gradual enlistments you may regularly add to their number, and insensibly incorporate the new levies with the disciplined troops. If it should hereafter become necessary to march into the field, you will then have an army under your command, not a multitude without subordination. Suspend, therefore, hostilities while you negotiate. Make an armistice until the result of the negotiation is ascertained. You can lose nothing; you can gain every thing by such a course; then negotiate fairly, with a view to obtain for our native seamen a practicable and reasonable security against impressment, and with a disposition to aid Britain in commanding the services of her own. Such an arrangement might have been made on the revocation of the orders in council, could you have been then satisfied with any thing short of an abandonment of the British claim to search. I doubt not but that it may now be made; more you cannot probably obtain. The time may come, when, with greater effect, you can prefer, if necessary, higher claims. All is hazarded by precipitately urging more than your relative strength enables you to enforce. Permit your country to grow; let no just right be abandoned; if any be postponed, it may be

advanced at a more opportune season, with better prospect of success. If you will quit this crusade against Canada, and seek peace in the spirit of accommodation; and (permit me to add) if you will forego your empiric schemes of embargo and commercial restrictions, you will restore harmony at home, and allay that widespread, and, in some places, alarming spirit of discontent that prevails in our land. And if your pacific efforts fail, if an obstinate and implacable foe will not agree to such a peace as the country can with credit accept, then appeal to the candor and spirit of your people, for a constitutional support, with a full assurance that such an appeal, under such circumstances, cannot be made in vain.

It is time, Mr. Chairman, that I should release you from the fatigue of hearing me. There is but one more topic to which I solicit your attention. Many admonitions have been addressed to the minority, by gentlemen on the ministerial side of the house, not without merit, and I hope not without edification, on the evils of violent opposition and intemperate party spirit. It is not to be denied, that opposition may exceed all reasonable bounds, and a minority become factious. But when I hear it seriously urged, that the nature of our government forbids that firm, manly, active opposition, which, in countries less free, is salutary and necessary; and when I perceive all the dangers of faction, apprehended only on the side of a minority, I witness but new instances of that wonderful ductility of the human mind, which, in its zeal to effect a favorite purpose, begins with the work of self-deception.

Why, sir, will not our form of government tolerate or require the same ardor of constitutional opposition, which is desirable in one wherein the chief magistrate is hereditary? "Because," says the gentleman from South Carolina (Mr. Calhoun), "in a monarchy, the influence of the executive and his ministers requires continual vigilance, lest it obtain too great a preponderance; but here the executive springs from the people, can do nothing without their support, and cannot therefore overrule and control the public sentiment." Sir, let us not stop at the surface of things; the influence of the executive in this country, while he retains his popularity, is infinitely greater than that of a limited monarch. It is as much stronger, as the spasm of convulsion is more violent than the voluntary tension of a muscle. The warmth of feeling excited during the contest of an election, and the natural zeal to uphold him whom they have chosen, create, between the executive and his adherents, a connection of passion, while the distribution of office and emolument adds a communion of interest, which, combined, produce a union almost indissoluble. 'Support the administration,' becomes a watchword, which passes from each chieftain of the dominant party to his subalterns, and thence to their followers in the ranks, till the president's opinion becomes

the criterion of orthodoxy, and his notions obtain a dominion over the public sentiment, which facilitates the most dangerous encroachments, and demands the most jealous supervision. In proportion as a government is free, the spirit of bold inquiry, of animated interest in its measures, and of firm opposition where they are not approved, becomes essential to its purity and continuance. And he, who, in a democracy, or republic, attempts to control the will of the popular idol of the day, may envy the luxurious ease with which ministerial oppressions are opposed and thwarted in governments which are less free.

Intemperance of party, wherever found, never will meet with an advocate in me. It is a most calamitous scourge to our country—the bane of social enjoyment, of individual justice, and of public virtue—unfriendly to the best pursuits of man, his interest and his duty ; it renders useless or even pernicious the highest endowments of intellect, and the noblest disposition of the soul. But, sir, whatever may be the evil necessarily inherent in its nature, its ravages are the most enormous and desolating when it is seated on the throne of power, and vested with all the attributes of rule.

I mean not to follow the gentleman from South Carolina over the classic ground of Greece, Carthage and Rome, to refute his theory, and show, that not to vehement opposition, but to the abuse of factious and intolerant power, their doom is to be attributed. Nor will I examine some more modern instances of republics whose destruction has the same origin. The thing is no longer matter of discussion ; it has passed into a settled truth in the science of political philosophy. One, who, on a question of historical deduction, of political theory, is entitled to high respect, has given us an admirable summary of the experience of republics on this interesting inquiry. In the tenth number of the Federalist, written by Mr. Madison, we find the following apt and judicious observations :—"By a faction, I understand a number of citizens, whether amounting to a majority or minority of the whole, who are united and actuated by some common impulse of passion or of interest, adverse to the rights of other citizens, or to the permanent and aggregate interests of the community. The inference to which we are brought is, that the causes of faction cannot be removed ; and that relief is only to be sought in the means of controlling its effects. If a faction consists of less than a majority, relief is supplied by the republican principle, which enables the majority to defeat its sinister views by regular vote. It may clog the administration, it may convulse the society ; but it will be unable to execute and mask its violence under the forms of the constitution. When a majority is included in a faction, the form of popular government, on the other hand, enables it to sacrifice to its ruling passion or interest, both the public good and the rights of other citizens. To secure the

public good and private rights against the dangers of such a faction, and, at the same time, to preserve the spirit and the form of popular government, is then the great object to which our inquiries are directed. Let me add, that it is the great desideratum by which alone this form of government can be rescued from the opprobrium under which it has so long labored, and be recommended to the esteem and adoption of mankind."

If this doctrine were, then, to be collected from the history of the world, can it now be doubted, since the experience of the last twenty-five years? Go to France, once revolutionary, now imperial France, and ask her whether factious power, or intemperate opposition, be the more fatal to freedom and happiness? Perhaps, at some moment when the eagle eye of her master is turned away, she may whisper to you, to behold the demolition of Lyons or the devastation of La Vendee. Perhaps she will give you a written answer—Draw near to the once fatal lamp-post, and by its flickering light, read it as traced in characters of blood that flowed from the guillotine—"Faction is a demon! faction out of power is a demond enchained! faction vested with the attributes of rule is a Moloch of destruction!"

Sir, if the denunciations which gentlemen have pronounced against factious violence, are not merely the image of rhetorical pomp, if they are, indeed, solicitous to mitigate the rancor of party feuds, in the sincerity of my soul, I wish them success.

It is melancholy to behold the miserable jealousies and malignant suspicions which so extensively prevail, to the destruction of social comfort, and the eminent peril of the republic. On this subject I have reflected much; not merely in the intervals stolen from the bustle of business or the gayeties of amusement; but in the moments of "depression and solitude," the most favorable to the correction of error. For one, I am willing to bring a portion of party feeling and party prejudice, as an oblation at the shrine of my country. But no offering can avail any thing, if not made on the part of those who are the political favorites of the day. On them it is incumbent to come forward and set the magnanimous example. Approaches or concessions on the side of the minority would be misconstrued into indications of timidity, or of a hankering for favor. But a spirit of conciliation arising from those ranks would be hailed as the harbinger of sunny days, as a challenge to liberality, and to a generous contention for the public weal. This spirit requires not any departure from deliberate opinion, unless it is shown to be erroneous. Such a concession would be a dereliction of duty. Its injunctions would be few, and, it is to be hoped, not difficult of observance. Seek to uphold your measures by the force of argument, not of denunciation; stigmatize not opposition to your notions with offensive epithets. These prove nothing but your anger or your

weakness, and are sure to generate a spirit of "moral resistance," not easily to be checked or tamed. Give to presidential views constitutional respect, but suffer them not to supersede the exercise of independent inquiry. Encourage instead of suppressing fair discussion, so that those, who approve not, may at least have a respectful hearing. Thus, without derogating a particle from the energy of your measures, you will impart a tone to political dissensions which would deprive them of their acrimony, and render them harmless to the nation.

The nominal party distinctions, sir, have become mere cabalistic terms. It is no longer a question whether, according to the theory of our constitution, there is more danger of the federal encroaching on the state governments, or the democracy of the state governments paralyzing the arm of federal power. Federalism and democracy have lost their meaning. It is now a question of commerce, peace and union of the states. On this question, unless the honesty and intelligence of the nation shall confederate into one great American party, disdaining petty office-keeping and office-hunting views, defying alike the insolence of the popular prints, the prejudices of faction, and the dominion of executive influence—I fear a decision will be pronounced fatal to the hopes, to the existence of the nation. In this question, I assuredly have a very deep interest; but it is the interest of a citizen only. My public career, I hope, will not continue long. Should it please the Disposer of events to permit me to see the great interests of this nation confided to men who will secure its rights by firmness, moderation and impartiality abroad, and at home cultivate the arts of peace, encourage honest industry in all its branches, dispense equal justice to all classes of the community, and thus administer the government in the true spirit of the constitution, as a trust for the people, not as the property of a party, it will be to me utterly unimportant by what political epithet they may be characterized. As a private citizen, grateful for the blessings I may enjoy, and yielding a prompt obedience to every legitimate demand that can be made upon me, I shall rejoice, as far as my little sphere may extend, to foster the same dispositions among those who surround me.

SPEECH OF WILLIAM PINKNEY,

ON THE

TREATY-MAKING POWER,

DELIVERED IN THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES, JANUARY 10, 1816.

A convention between the United States and Great Britain was signed at London, in July, 1815, and subsequently ratified by the president and senate, by which it was stipulated that the discriminating duties on British vessels and their cargoes, then subsisting under certain acts of congress, should be abolished, in return for a reciprocal stipulation on the part of Great Britain. On this occasion, a bill was brought into the house of representatives to carry the convention into effect, specifically enacting the stipulations contained in the convention itself. This bill was opposed by Mr. Pinkney in the following speech:—

MR. CHAIRMAN,

I intended yesterday, if the state of my health had permitted, to have trespassed on the house with a short sketch of the grounds upon which I disapprove of the bill. What I could not do then, I am about to endeavor now, under the pressure, nevertheless, of continuing indisposition, as well as under the influence of a natural reluctance thus to manifest an apparently ambitious and improvident hurry to lay aside the character of a listener to the wisdom of others, by which I could not fail to profit, for that of an expounder of my own humble notions, which are not likely to be profitable to any body. It is, indeed, but too probable that I should best have consulted both delicacy and discretion, if I had forborne this precipitate attempt to launch my little bark upon what an honorable member has aptly termed the "torrent of debate" which this bill has produced. I am conscious that it may, with singular propriety, be said of me, that I am *novus hospes* here; that I have scarcely begun to acquire a domicil among those whom I am undertaking to address; and that, recently transplanted hither from courts of judicature, I ought, for a season, to look upon myself as a sort of exotic, which time has not sufficiently familiarized with the soil to which it has been removed, to enable it to

put forth either fruit or flower. However all this may be, it is now too late to be silent. I proceed, therefore, to entreat your indulgent attention to the few words with which I have to trouble you upon the subject under deliberation.

That subject has already been treated with an admirable force and perspicuity on all sides of the house. The strong power of argument has drawn aside, as it ought to do, the veil which is supposed to belong to it, and which some of us seem unwilling to disturb; and the stronger power of genius, from a higher region than that of argument, has thrown upon it all the light with which it is the prerogative of genius to invest and illustrate every thing. It is fit that it should be so; for the subject is worthy by its dignity and importance to employ in the discussion of it all the powers of the mind, and all the eloquence by which I have already felt that this assembly is distinguished. The subject is the fundamental law. We owe it to the people to labor with sincerity and diligence, to ascertain the true construction of that law, which is but a record of their will. We owe it to the obligations of the oath which has recently been imprinted upon our consciences, as well as to the people, to be obedient to that will when we have succeeded in ascertaining it. I shall give you my opinion upon this matter, with the utmost deference for the judgment of others, but, at the same time, with that honest and unreserved freedom which becomes this place, and is suited to my habits.

Before we can be in a situation to decide whether this bill ought to pass, we must know precisely what it is; what it is not, is obvious. It is not a bill which is auxiliary to the treaty. It does not deal with details which the treaty does not bear in its own bosom. It contains no subsidiary enactments, no dependent provisions, flowing as corollaries from the treaty. It is not to raise money or to make appropriations, or to do any thing else beyond or out of the treaty. It acts simply as the echo of the treaty.

Ingeminat voces, auditaque verba reportat. It may properly be called the twin-brother of the treaty; its duplicate, its reflected image, for it reënacts with a timid fidelity, somewhat inconsistent with the boldness of its pretensions, all that the treaty stipulates, and having performed that work of supererogation, stops. It once attempted something more, indeed; but that surplus has been expunged from it as a desperate intruder, as something which might violate, by a misinterpretation of the treaty, that very public faith which we are now prepared to say the treaty has never plighted in any the smallest degree. In one word, the bill is a *fac simile* of the treaty in all its clauses.

I am warranted in concluding, then, that, if it be any thing but an empty form of words, it is a confirmation or ratification of the treaty; or, to speak with a more guarded accuracy, is an act to

which only (if passed into a law), the treaty can owe its being. If it does not spring from the *pruritas leges ferendi*, by which this body can never be afflicted, I am warranted in saying, that it springs from a hypothesis (which may afflict us with a worse disease), that no treaty of commerce can be made by any power in the state but congress. It stands upon that postulate, or it is a mere bubble, which might be suffered to float through the forms of legislation, and then to burst without consequence or notice.

That this postulate is utterly irreconcilable with the claims and port with which this convention comes before you, it is impossible to deny. Look at it! Has it the air or shape of a mere pledge that the president will recommend to congress the passage of such laws as will produce the effect at which it aims? Does it profess to be preliminary, or provisional, or inchoate, or to rely upon your instrumentality in the consummation of it, or to take any notice of you, however distant, as actual or eventual parties to it? No, it pretends upon the face of it, and in the solemnities with which it has been accompanied and followed, to be a pact with a foreign state, complete and self-efficient, from the obligation of which this government cannot now escape, and to the perfection of which no more is necessary than has already been done. It contains the clause which is found in the treaty of 1794, and substantially in every other treaty made by the United States under the present constitution, so as to become a formula, that, when ratified by the president of the United States, by and with the advice and consent of the senate, and by his Britannic majesty, and the respective ratifications mutually exchanged, it shall be binding and obligatory on the said states and his majesty.

It has been ratified in conformity with that clause. Its ratifications have been exchanged in the established and stipulated mode. It has been proclaimed, as other treaties have been proclaimed, by the executive government, as an integral portion of the law of the land, and our citizens, at home and abroad, have been admonished to keep and observe it accordingly. It has been sent to the other contracting party with the last stamp of the national faith upon it, after the manner of former treaties with the same power, and will have been received and acted upon by that party as a concluded contract, long before your loitering legislation can overtake it. I protest, sir, I am somewhat at a loss to understand what this convention has been, since its ratifications were exchanged, and what it is now, if our bill be sound in its principle. Has it not been, and is it not an unintelligible, unbaptized and unbaptizable thing, without attributes of any kind, bearing the semblance of an executed compact, but in reality a hollow fiction; a thing which no man is led to consider even as the germ of a treaty, entitled to be cherished in the vineyard of the constitution; a thing which, pro-

fessing to have done every thing that public honor demands, has done nothing but practise delusion? You may ransack every diplomatic nomenclature, and run through every vocabulary, whether of diplomacy or law, and you shall not find a word by which you may distinguish, if our bill be correct in its hypothesis, this "deed without a name." A plain man, who is not used to manage his phrases, may, therefore, presume to say, that if this convention with England be not a valid treaty, which does not stand in need of your assistance, it is a usurpation on the part of those who have undertaken to make it; that, if it be not an act within the treaty-making capacity, confided to the president and senate, it is an encroachment on the legislative rights of congress.

I am one of those who view the bill upon the table as declaring that it is not within that capacity, as looking down upon the convention as the still-born progeny of arrogated power, as offering to it the paternity of congress, and affecting by that paternity to give to it life and strength; and as I think that the convention does not stand in need of any such filiation, to make it either strong or legitimate, that it is already all that it can become, and that useless legislation upon such a subject is vicious legislation, I shall vote against the bill. The correctness of these opinions is what I propose to establish.

I lay it down as an incontrovertible truth, that the constitution has assumed (and, indeed, how could it do otherwise?) that the government of the United States might and would have occasion, like the other governments of the civilized world, to enter into treaties with foreign powers, upon the various subjects involved in their mutual relations; and, further, that it might be, and was proper to designate the department of the government in which the capacity to make such treaties should be lodged. It has said, accordingly, that the president, with the concurrence of the senate, shall possess this portion of the national sovereignty. It has, furthermore, given to the same magistrate, with the same concurrence, the exclusive creation and control of the whole machinery of diplomacy. He only, with the approbation of the senate, can appoint a negotiator, or take any step towards negotiation. The constitution does not, in any part of it, even intimate that any other department shall possess either a constant or an occasional right to interpose in the preparation of any treaty, or in the final perfection of it. The president and senate are explicitly pointed out as the sole actors in that sort of transaction. The prescribed concurrence of the senate, and that too by a majority greater than the ordinary legislative majority, plainly excludes the necessity of congressional concurrence. If the consent of congress to any treaty had been intended, the constitution would not have been guilty of the absurdity of first putting a treaty for ratification to

the president and senate exclusively, and again to the same president and senate as portions of the legislature. It would have submitted the whole matter at once to congress, and the more especially, as the ratification of a treaty by the senate, as a branch of the legislature, may be by a smaller number than a ratification of it by the same body, as a branch of the executive government. If the ratification of any treaty by the president, with the advice and consent of the senate, must be followed by a legislative ratification, it is a mere nonentity. It is good for all purposes, or for none. And if it be nothing in effect, it is a mockery by which nobody would be bound. The president and senate would not themselves be bound by it; and the ratification would at last depend, not upon the will of the president and two thirds of the senate, but upon the will of a bare majority of the two branches of the legislature, subject to the qualified legislative control of the president.

Upon the power of the president and senate, therefore, there can be no doubt. The only question is as to the extent of it; or, in other words, as to the subject upon which it may be exerted. The effect of the power, when exerted within its lawful sphere, is beyond the reach of controversy. The constitution has declared, that whatsoever amounts to a treaty, made under the authority of the United States, shall immediately be supreme law. It has contradistinguished a treaty as law from an act of congress as law. It has erected treaties, so contradistinguished, into a binding judicial rule. It has given them to our courts of justice, in defining their jurisdiction, as a portion of the *lex terræ*, which they are to interpret and enforce. In a word, it has communicated to them, if ratified by the department which it has specially provided for the making of them, the rank of law, or it has spoken without meaning. And if it has elevated them to that rank, it is idle to attempt to raise them to it by ordinary legislation.

Upon the extent of the power, or the subjects upon which it may act, there is as little room for controversy. The power is to make treaties. The word treaties is *nomen generalissimum*, and will comprehend commercial treaties, unless there be a limit upon it, by which they are excluded. It is the appellative, which will take in the whole species, if there be nothing to narrow its scope. There is no such limit. There is not a syllable in the context of the clause to restrict the natural import of its phraseology. The power is left to the force of the generic term, and is, therefore, as wide as a treaty-making power can be. It embraces all the varieties of treaties which it could be supposed this government could find it necessary or proper to make, or it embraces none. It covers the whole treaty-making ground which this government could be expected to occupy, or not an inch of it.

It is a just presumption, that it was designed to be coëxtensive

with all the exigencies of our affairs. Usage sanctions that presumption; expediency does the same. The omission of any exception to the power, the omission of the designation of a mode by which a treaty, not intended to be included within it, might otherwise be made, confirms it. That a commercial treaty was, above all others, in the contemplation of the constitution, is manifest. The immemorial practice of Europe, and particularly of the nation from which we emigrated, the consonance of enlightened theory to that practice, prove it. It may be said, indeed, that at the epoch of the birth of our constitution, the necessity for a power to make commercial treaties was scarcely visible, for that our trade was then in its infancy. It was so; but it was the infancy of another Hercules, promising, not indeed a victory over the lion of Nemæa, or the boar of Erymanthus, but the peaceful conquest of every sea which could be subjected to the dominion of commercial enterprise. It was then as apparent as it is now, that the destinies of this great nation were irrevocably commercial; that the ocean would be whitened by our sails, and the *ultima Thule* of the world compelled to witness the more than Phœnician spirit and intelligence of our merchants. With this glorious anticipation dawning upon them—with this resplendent Aurora gilding the prospect of the future—nay, with the risen orb of trade illuminating the vast horizon of American greatness—it cannot be supposed that the framers of the constitution did not look to the time when we should be called upon to make commercial conventions. It needs not the aid of the imagination to reject this disparaging and monstrous supposition. Dulness itself, throwing aside the lethargy of its character, and rising for a passing moment to the rapture of enthusiasm, will disclaim it with indignation.

It is said, however, that the constitution has given to congress the power to regulate commerce with foreign nations; and that, since it would be inconsistent with that power, that the president, with the consent of the senate, should do the same thing, it follows, that this power of congress is an exception out of the treaty-making power. Never were premises, as it appears to my understanding, less suited to the conclusion. The power of congress to regulate our foreign trade, is a power of municipal legislation, and was designed to operate as far as, upon such a subject, municipal legislation can reach. Without such a power, the government would be wholly inadequate to the ends for which it was instituted. A power to regulate commerce by treaty alone, would touch only a portion of the subject. A wider and more general power was therefore indispensable, and it was properly devolved on congress, as the legislature of the Union.

On the other hand, a power of mere municipal legislation, acting upon views exclusively our own, having no reference to a

reciprocation of advantages by arrangements with a foreign state, would also fall short of the ends of government in a country of which the commercial relations are complex and extensive, and liable to be embarrassed by conflicts between its own interests and those of other nations. That the power of congress is simply legislative in the strictest sense, and calculated for ordinary domestic regulation only, is plain from the language in which it is communicated. There is nothing in that language which indicates regulation by compact or compromise, nothing which points to the coöperation of a foreign power, nothing which designates a treaty-making faculty. It is not connected with any of the necessary accompaniments of that faculty; it is not furnished with any of those means, without which it is impossible to make the smallest progress towards a treaty.

It is self-evident, that a capacity to regulate commerce by treaty, was intended by the constitution to be lodged somewhere. It is just as evident, that the legislative capacity of congress does not amount to it, and cannot be exerted to produce a treaty. It can produce only a statute, with which a foreign state cannot be made to concur, and which will not yield to any modifications which a foreign state may desire to impress upon it for suitable equivalents. There is no way in which congress, as such, can mould its laws into treaties, if it respects the constitution. It may legislate and counter-legislate; but it must forever be beyond its capacity to combine in a law, emanating from its separate domestic authority, its own views with those of other governments, and to produce a harmonious reconciliation of those jarring purposes and discordant elements which it is the business of negotiation to adjust.

I reason thus, then, upon this part of the subject. It is clear that the power of congress, as to foreign commerce, is only what it professes to be in the constitution—a legislative power, to be exerted municipally without consultation or agreement with those with whom we have an intercourse of trade; it is undeniable that the constitution meant to provide for the exercise of another relatively to commerce, which should exert itself in concert with the analogous power in other countries, and should bring about its results, not by statute enacted by itself, but by an international compact called a treaty; that it is manifest, that this other power is vested by the constitution in the president and senate, the only department of the government which it authorizes to make any treaty, and which it enables to make all treaties; that if it be so vested, its regular exercise must result in that which, as far as it reaches, is law in itself, and consequently repeals such municipal regulations as stand in its way, since it is expressly declared by the constitution that treaties, regularly made, shall have, as they ought to have, the force of law. In all this, I perceive nothing to

perplex or alarm us. It exhibits a well-digested and uniform plan of government, worthy of the excellent men by whom it was formed. The ordinary power to regulate commerce by statutory enactments, could only be devolved upon congress, possessing all the other legislative powers of the government. The extraordinary power to regulate it by treaty, could not be devolved upon congress, because from its composition, and the absence of all those authorities and functions which are essential to the activity and effect of a treaty-making power, it was not calculated to be the depositary of it. It was wise and consistent to place the extraordinary power to regulate commerce by treaty, where the residue of the treaty-making power was placed, where only the means of negotiation could be found, and the skilful and beneficial use of them could reasonably be expected.

That congress legislates upon commerce, subject to the treaty-making power, is a position perfectly intelligible; but the understanding is in some degree confounded by the other proposition, that the legislative power of congress is an exception out of the treaty-making power. It introduces into the constitution a strange anomaly—a commercial state, with a written constitution, and no power in it to regulate its trade, in conjunction with other states, in the universal mode of convention. It will be in vain to urge, that this anomaly is merely imaginary; for that the president and senate may make a treaty of commerce for the consideration of congress. The answer is, that the treaties which the president and senate are entitled to make, are such as, when made, become law; that it is no part of their functions simply to initiate treaties, but conclusively to make them; and that where they have no power to make them, there is no provision in the constitution how or by whom they shall be made.

That there is nothing new in the idea of a separation of the legislative and conventional powers upon commercial subjects, and of the necessary control of the former by the latter, is known to all who are acquainted with the constitution of England. The parliament of that country enacts the statutes by which its trade is regulated municipally. The crown modifies them by a treaty. It has been imagined, indeed, that the parliament is in the practice of confirming such treaties; but the fact is undoubtedly otherwise. Commercial treaties are laid before parliament, because the king's ministers are responsible for their advice in the making of them, and because the vast range and complication of the English laws of trade and revenue render legislation unavoidable, not for the ratification, but the execution, of their commercial treaties.

It is suggested, again, that the treaty-making power (unless we are tenants in common of it with the president and senate, to the extent at least of our legislative rights) is a pestilent monster

pregnant with all sorts of disasters! It teems with "Gorgons and Hydras and Chimeras dire!" At any rate, I may take for granted, that the case before us does not justify this array of metaphor and fable; since we are all agreed that the convention with England is not only harmless but salutary. To put this particular case, however, out of the argument, what have we to do with considerations like these? Are we here to form, or to submit to the constitution as it has been given to us for a rule by those who are our masters? Can we take upon ourselves the office of political casuists, and because we think that a power ought to be less than it is, compel it to shrink to our standard? Are we to bow with reverence before the national will as the constitution displays it, or to fashion it to our own, to quarrel with that charter, without which we ourselves are nothing; or to take it as a guide which we cannot desert with innocence or safety? But why is the treaty-making power, lodged, as I contend it is, in the president and senate, likely to disaster us, as we are required to apprehend it will? Sufficient checks have not, as it seems, been provided, either by the constitution or the nature of things, to prevent the abuse of it. It is in the house of representatives alone, that the amulet, which bids defiance to the approaches of political disease, or cures it when it has commenced, can in all vicissitudes be found. I hold that the checks are sufficient, without the charm of our legislative agency, for all those occasions which wisdom is bound to foresee and to guard against; and that as to the rest (the eccentricities and portents which no ordinary checks can deal with), the occasions must provide for themselves.

It is natural, here, to ask of gentlemen, what security they would have. They cannot "take a bond of fate;" and they have every pledge which is short of it. Have they not, as respects the president, all the security upon which they rely from day to day for the discreet and upright discharge of the whole of his other duties, many and various as they are? What security have they that he will not appoint to office the refuse of the world; that he will not pollute the sanctuary of justice by calling vagabonds to its holy ministry, instead of adorning it with men like those who now give to the bench more dignity than they receive from it; that he will not enter into a treaty of amnesty with every conspirator against law and order, and pardon culprits from mere enmity to virtue? The security for all this, and infinitely more, is found in the constitution and in the order of nature; and we are all satisfied with it. One should think that the same security, which thus far time has not discredited, might be sufficient to tranquillize us upon the score of the power which we are now considering.

We talk of ourselves as if we only were the representatives

of the people. But the first magistrate of this country is also the representative of the people, the creature of their sovereignty, the administrator of their power, their steward and servant, as you are —he comes from the people, is lifted by them into place and authority, and after a short season returns to them for censure or applause. There is no analogy between such a magistrate and the hereditary monarchs of Europe. He is not born to the inheritance of office; he cannot even be elected until he has reached an age at which he must pass for what he is; until his habits have been formed, his integrity tried, his capacity ascertained, his character discussed and probed, for a series of years, by a press, which knows none of the restraints of European policy. He acts, as you do, in the full view of his constituents, and under the consciousness that on account of the singleness of his station, all eyes are upon him. He knows, too, as well as you can know, the temper and intelligence of those for whom he acts, and to whom he is amenable. He cannot hope that they will be blind to the vices of his administration on subjects of high concernment and vital interest; and in proportion as he acts upon his own responsibility, unrelieved and undiluted by the infusion of ours, is the danger of ill-advised conduct likely to be present to his mind.

Of all the powers which have been intrusted to him, there is none to which the temptations to abuse belong so little as to the treaty-making power in all its branches; none which can boast such mighty safeguards in the feelings and views, and passions which even a misanthrope could attribute to the foremost citizen of this republic. He can have no motive to palsy, by a commercial or any other treaty, the prosperity of his country. Setting apart the restraints of honor and patriotism, which are characteristic of public men in a nation habitually free, could he do so without subjecting himself, as a member of the community (to say nothing of his immediate connections), to the evils of his own work? A commercial treaty, too, is always a conspicuous measure. It speaks for itself. It cannot take the garb of hypocrisy, and shelter itself from the scrutiny of a vigilant and well-instructed population. If it be bad, it will be condemned, and if dishonestly made, be execrated. The pride of country, moreover, which animates even the lowest of mankind, is here a peculiar pledge for the provident and wholesome exercise of power. There is not a consideration by which a chord in the human breast can be made to vibrate, that is not in this case the ally of duty. Every hope, either lofty or humble, that springs forward to the future; even the vanity which looks not beyond the moment; the dread of shame and the love of glory; the instinct of ambition; the domestic affections; the cold ponderings of prudence; and

the ardent instigations of sentiment and passion, are all on the side of duty. It is in the exercise of this power that responsibility to public opinion, which even despotism feels and truckles to, is of gigantic force. If it were possible, as I am sure it is not, that an American citizen, raised, upon the credit of a long life of virtue, to a station so full of honor, could feel a disposition to mingle the little interests of a perverted ambition with the great concerns of his country, as embraced by a commercial treaty, and to sacrifice her happiness and power by the stipulations of that treaty, to flatter or aggrandize a foreign state, he would still be saved from the perdition of such a course, not only by constitutional checks, but by the irresistible efficacy of responsibility to public opinion, in a nation whose public opinion wears no mask, and will not be silenced. He would remember that his political career is but the thing of an hour, and that when it has passed he must descend to the private station from which he rose, the object either of love and veneration, or of scorn and horror. If we cast a glance at England, we shall not fail to see the influence of public opinion upon a hereditary king, a hereditary nobility, and a house of commons, elected, in a great degree, by rotten boroughs, and overflowing with placemen. And if this influence is potent there against all the efforts of independent power and wide-spread corruption, it must in this country be omnipotent.

But the treaty-making power of the president is further checked by the necessity of the concurrence of two thirds of the senate, consisting of men selected by the legislatures of the states, themselves elected by the people. They too must have passed through the probation of time, before they can be chosen, and must bring with them every title to confidence. The duration of their office is that of a few years; their numbers are considerable; their constitutional responsibility as great as it can be; and their moral responsibility beyond all calculation.

The power of impeachment has been mentioned as a check upon the president, in the exercise of the treaty-making capacity. I rely upon it less than upon others of, as I think, a better class; but as the constitution places some reliance upon it, so do I. It has been said, that impeachment has been tried and found wanting. Two impeachments have failed, as I have understood (that of a judge was one),—but they may have failed for reasons consistent with the general efficacy of such a proceeding. I know nothing of their merits, but I am justified in supposing that the evidence was defective, or that the parties were innocent as they were pronounced to be. Of this, however, I feel assured, that if it should ever happen that the president is found to deserve the punishment which impeachment seeks to inflict (even for making a treaty to which the judges have become parties), and this body should ac-

cuse him, in a constitutional way, he will not easily escape. But, be that as it may, I ask if it is nothing that you have power to arraign him as a culprit. Is it nothing that you can bring him to the bar, expose his misconduct to the world, and bring down the indignation of the public upon him and those who dare to acquit him?

If there be any power explicitly granted by the constitution to congress, it is that of declaring war; and if there be any exercise of human legislation more solemn and important than another, it is a declaration of war. For expansion it is the largest, for effect the most awful, of all the enactments to which congress is competent; and it always is, or ought to be, preceded by grave and anxious deliberation. This power, too, is connected with, or virtually involves, others of high import and efficacy; among which may be ranked the power of granting letters of marque and reprisal, of regulating captures, of prohibiting intercourse with, or the acceptance of protections or licenses from the enemy. Yet further; a power to declare war implies, with peculiar emphasis, a negative upon all power, in any other branch of the government, inconsistent with the full and continuing effect of it. A power to make peace in any other branch of the government, is utterly inconsistent with that full and continuing effect. It may even prevent it from having any effect at all, since peace may follow almost immediately (although it rarely does so follow) the commencement of a war. If, therefore, it be undeniable that the president, with the advice and consent of the senate, has power to make a treaty of peace, available *ipso jure*, it is undeniable that he has power to repeal, by the mere operation of such a treaty, the highest acts of congressional legislation. And it will not be questioned, that this repealing power is, from the eminent nature of the war-declaring power, less fit to be made out by inference than the power of modifying by treaty the laws which regulate our foreign trade. Now the president, with the advice and consent of the senate, has an incontestable and uncontested right to make a treaty of peace, of absolute inherent efficacy, and that too in virtue of the very same general provision in the constitution which the refinements of political speculation, rather than any known rules of construction, have led some of us to suppose excludes a treaty of commerce.

By what process of reasoning will you be able to extract from the wide field of that general provision the obnoxious case of a commercial treaty, without forcing along with it the case of a treaty of peace, and along with that again the case of every possible treaty? Will you rest your distinction upon the favorite idea that a treaty cannot repeal laws competently enacted, or, as it is sometimes expressed, cannot trench upon the legislative

rights of congress? Such a distinction not only seems to be reproached by all the theories, numerous as they are, to which this bill has given birth, but is against notorious fact and recent experience. We have lately witnessed the operation in this respect of a treaty of peace, and could not fail to draw from it this lesson,—that no sooner does the president exert, with the consent of the senate, his power to make such a treaty, than your war-denouncing law, your act for letters of marque, your prohibitory statutes as to intercourse and licenses, and all the other concomitant and dependent statutes, so far as they affect the national relations with a foreign enemy, pass away as a dream, and in a moment are "with years beyond the flood." Your auxiliary agency was not required in the production of this effect; and I have not heard that you even tendered it. You saw your laws departing, as it were, from the statute-books, expelled from the stronghold of supremacy by the single force of a treaty of peace, and you did not attempt to stay them; you did not bid them linger until you should bid them go; you neither put your shoulders to the wheel of expulsion, nor made an effort to retard it. In a word, you did nothing. You suffered them to flee as a shadow, and you know that they were reduced to shadow, not by the necromancy of usurpation, but by the energy of constitutional power. Yet you had every reason for interference then which you can have now. The power to make a treaty of peace stands upon the same constitutional footing with the power to make a commercial treaty. It is given by the same words. It is exerted in the same manner. It produces the same conflict with municipal legislation. The ingenuity of man cannot urge a consideration, whether upon the letter or the spirit of the constitution, against the existence of a power in the president and senate to make a valid commercial treaty, which will not, if it be correct and sound, drive us to the negation of the power exercised by the president and senate, with universal approbation, to make a valid treaty of peace.

Nay, the whole treaty-making power will be blotted from the constitution, and a new one, alien to its theory and practice, be made to supplant it, if sanction and scope be given to the principles of this bill. This bill may indeed be considered as the first of many assaults, not now intended perhaps, but not therefore the less likely to happen, by which the treaty-making power, as created and lodged by the constitution, will be pushed from its place, and compelled to abide with the power of ordinary legislation. The example of this bill is beyond its ostensible limits. The pernicious principle, of which it is at once the child and the apostle, must work onward, and to the right and the left, until it has exhausted itself; and it never can exhaust itself until it has gathered into the vortex of the legislative powers of congress

the whole treaty-making capacity of the government. For if, notwithstanding the directness and precision with which the constitution has marked out the department of the government by which it wills that treaties shall be made, and has declared that treaties so made shall have the force and dignity of law, the house of representatives can insist upon some participation in that high faculty, upon the simple suggestion that they are sharers in legislative power upon the subjects embraced by any given treaty, what remains to be done, for the transfer to congress of the entire treaty-making faculty, as it appears in the constitution, but to show that congress have legislative power, direct or indirect, upon every matter which a treaty can touch? And what are the matters within the practicable range of a treaty, which your laws cannot either mould, or qualify, or influence? Imagination has been tasked for example, by which this question might be answered. It is admitted that they must be few, and we have been told, as I think, of no more than one. It is the case of contraband of war. This case has, it seems, the double recommendation of being what is called an international case, and a case beyond the utmost grasp of congressional legislation. I remark upon it, that it is no more an international case than any matter of collision incident to the trade of two nations with each other. I remark further, that a treaty upon the point of contraband of war may interfere, as well as any other treaty, with an act of congress. A law encouraging, by a bounty or otherwise, the exportation of certain commodities, would be counteracted by an insertion into the list of contraband of war, in a treaty with England or France, any one of those commodities. The treaty would look one way, the law another; and various modes might readily be suggested in which congress might so legislate as to lay the foundation of repugnancy between its laws and the treaties of the president and senate with reference to contraband. I deceive myself greatly if a subject can be named upon which a like repugnancy might not occur. But even if it should be practicable to furnish, after laborious inquiry and meditation, a meagre and scanty inventory of some half dozen topics, to which domestic legislation cannot be made to extend, will it be pretended that such was the insignificant and narrow domain designed by the constitution for the treaty-making power? It would appear that there is with some gentlemen a willingness to distinguish between the legislative power expressly granted to congress, and that which is merely implied, and to admit that a treaty may control the results of the latter. I reply to those gentlemen, that one legislative power is exactly equivalent to another, and that, moreover, the whole legislative power of congress may justly be said to be expressly granted by the constitution, although the constitution does not

enumerate every variety of its exercise, or indicate all the ramifications into which it may diverge to suit the exigencies of the times. I reply, besides, that even with the qualification of this vague distinction, whatever may be its value or effect, the principle of the bill leaves no adequate sphere for the treaty-making power. I reply, finally, that the acknowledged operation of a treaty of peace in repealing laws of singular strength and unbending character, enacted in virtue of powers communicated *in terminis* to congress, gives the distinction to the winds.

And now that I have again adverted to the example of a treaty of peace, let me call upon you to reflect on the answer which that example affords to all the warnings we have received in this debate against the mighty danger of intrusting to the only department of the government, which the constitution supposes can make a treaty, the incidental prerogative of a repealing legislation. It is inconsistent, we are desired to believe, with the genius of the constitution, and must be fatal to all that is dear to freemen, that an executive magistrate and a senate, who are not immediately elected by the people, should possess this authority. We hear from one quarter that if it be so, the public liberty is already in the grave; and from another, that the public interest and honor are upon the verge of it. But do you not perceive that this picture of calamity and shame is the mere figment of excited fancy, disavowed by the constitution as hysterical, and erroneous in the case of a treaty of peace? Do you not see that if there be any thing in this high-colored peril, it is a treaty of peace that must realize it? Can we in this view compare with the power to make such a treaty, that of making a treaty of commerce? Are we unable to conjecture, while we are thus brooding over anticipated evils which can never happen, that the lofty character of our country (which is but another name for strength and power) may be made to droop by a mere treaty of peace; that the national pride may be humbled; the just hopes of the people blasted; their courage tamed and broken; their prosperity struck to the heart; their foreign rivals encouraged into arrogance, and tutored into encroachment, by a mere treaty of peace? I confidently trust, that, as this never has been so, it never will be so; but surely it is just as possible as that a treaty of commerce should ever be made to shackle the freedom of this nation, or check its march to the greatness and glory that await it. I know not, indeed, how it can seriously be thought that our liberties are in hazard from the small witchery of a treaty of commerce, and yet in none from the potent enchantments by which a treaty of peace may strive to enthral them. I am at a loss to conceive by what form of words, by what hitherto unheard-of stipulations, a commercial treaty is to barter away the freedom of United Ameri-

ca, or of any the smallest portion of it. I cannot figure to myself the possibility that such a project can ever find its way into the head or heart of any man, or set of men, whom this nation may select as the depositaries of its power; but I am quite sure that an attempt to insert such a project in a commercial treaty, or in any other treaty, or in any other mode, could work no other effect than the destruction of those who should venture to be parties to it, no matter whether a president, senate, or a whole congress. Many extreme cases have been put for illustration in this debate, and this is one of them; and I take the occasion which it offers to mention, that to argue from extreme cases is seldom logical, and upon a question of interpretation, never so. We can only bring back the means of delusion, if we wander into the regions of fiction, and explore the wilds of bare possibility in search of rules for real life and actual ordinary cases. By arguing from the possible abuse of power against the use or existence of it, you may and must come to the conclusion, that there ought not to be, and is not, any government in this country, or in the world Disorganization and anarchy are the sole consequences that can be deduced from such reasoning. Who is it that may not abuse the power that has been confided to him? May not we, as well as the other branches of the government? And, if we may, does not the argument from extreme cases prove that we ought to have no power, and that we have no power? And does it not, therefore, after having served for an instant the purposes of this bill, turn short upon and condemn its whole theory, which attributes to us, not merely the power which is our own, but inordinate power, to be gained only by wresting it from others? Our constitutional and moral security against the abuses of the power of the executive government have already been explained. I will only add, that a great and manifest abuse of the delegated authority to make treaties would create no obligation any where. If ever it should occur, as I confidently believe it never will, the evil must find its corrective in the wisdom and firmness, not of this body only, but of the whole body of the people coöperating with it. It is, after all, in the people, upon whose Atlantean shoulders our whole republican system reposes, that you must expect that recuperative power, that redeeming and regenerating spirit, by which the constitution is to be purified and redintegrated when extravagent abuse has cankered it.

In addition to the example of a treaty of peace, which I have just been considering, let me put another, of which none of us can question the reality. The president may exercise the power of pardoning, save only in the case of impeachments. The power of pardoning is not communicated by words more precise or comprehensive than the power to make treaties. But to what

does it amount? Is not every pardon, *pro hac vice*, a repeal of the penal law against which it gives protection? Does it not ride over the law, resist its command and extinguish its effect? Does it not even control the combined force of judicature and legislation? Yet, have we ever heard that your legislative rights were an exception out of the prerogative of mercy? Who has ever pretended that this faculty cannot, if regularly exerted, wrestle with the strongest of your statutes? I may be told, that the pardoning power necessarily imports a control over the penal code, if it be exercised in the form of a pardon. I answer, the power to make treaties equally imports a power to put out of the way such parts of the civil code as interfere with its operation, if that power be exerted in the form of a treaty. There is no difference in their essence. You legislate, in both cases, subject to the power. And this instance furnishes another answer, as I have already intimated, to the predictions of abuse, with which, on this occasion, it has been endeavored to appal us. The pardoning power is in the president alone. He is not even checked by the necessity of senatorial concurrence. He may, by his single *fiat*, extract the sting from your proudest enactments, and save from their vengeance a convicted offender.

Sir, you have my general notions upon the bill before you. They have no claim to novelty. I imbibed them from some of the heroes and sages who survived the storm of that contest to which America was summoned in her cradle. I imbibed them from the father of his country. My understanding approved them with the full concurrence of my heart, when I was much younger than I am now; and I feel no disposition to discard them now that age and feebleness are about to overtake me. I could say more—much more—upon this question; but I want health and strength. It is, perhaps, fortunate for the house that I do, as it prevents me from fatiguing them as much as I fatigue myself.

SPEECH OF WILLIAM PINKNEY,

IN THE SENATE OF THE UNITED STATES,

FEBRUARY 15, 1820,

ON

THE MISSOURI QUESTION.

The bill from the house of representatives, for the admission of Missouri into the Union, with a clause prohibiting the introduction of slaves into the new state, being under consideration, Mr. Pinkney spoke as follows:—

As I am not a very frequent speaker in this assembly, and have shown a desire, I trust, rather to listen to the wisdom of others than to lay claim to superior knowledge by undertaking to advise, even when advice, by being seasonable in point of time, might have some chance of being profitable, you will, perhaps, bear with me if I venture to trouble you once more on that eternal subject which has lingered here, until all its natural interest is exhausted, and every topic connected with it is literally worn to tatters. I shall, I assure you, sir, speak with laudable brevity—not merely on account of the feeble state of my health, and from some reverence for the laws of good taste which forbid me to speak otherwise, but also from a sense of justice to those who honor me with their attention. My single purpose, as I suggested yesterday, is to subject to a friendly, yet close examination, some portions of a speech, imposing certainly on account of the distinguished quarter from whence it came—not *very* imposing (if I may so say, without departing from that respect which I sincerely feel and intend to manifest for eminent abilities and long experience) for any *other* reason.

I believe, Mr. President, that I am about as likely to retract an opinion which I have formed, as any member of this body, who, being a lover of truth, inquires after it with diligence before he imagines that he has found it; but I suspect that we are all of us so constituted as that neither argument nor declamation, levelled against recorded and published decision, can easily discover a

practicable avenue through which it may hope to reach either our heads or our hearts. I mention this, lest it may excite surprise, when I take the liberty to add, that the speech of the honorable gentleman from New-York, upon the great subject with which it was principally occupied, has left me as great an infidel as it found me. It is possible, indeed, that if I had had the good fortune to hear that speech at an earlier stage of this debate, when all was fresh and new, although I feel confident that the analysis which it contained of the constitution, illustrated as it was by historical anecdote rather than by reasoning, would have been just as unsatisfactory to me *then* as it is *now*, I might not have been altogether unmoved by those warnings of approaching evil which it seemed to intimate, especially when taken in connection with the observations of the same honorable gentleman on a preceding day, "that delays in disposing of this subject, in the manner he desires, are dangerous, and that we stand on slippery ground." I must be permitted, however (speaking only for myself), to say, that the hour of dismay is passed. I have heard the tones of the larum bell on all sides, until they have become familiar to my ear, and have lost their power to appal, if, indeed, they ever possessed it. Notwithstanding occasional appearances of rather an unfavorable description, I have long since persuaded myself that the *Missouri Question*, as it is called, might be laid to rest, with innocence and safety, by some conciliatory compromise at least, by which, as is our duty, we might reconcile the extremes of conflicting views and feelings, without any sacrifice of constitutional principle; and in any event, that the Union would easily and triumphantly emerge from those portentous clouds with which this controversy is supposed to have environed it.

I confess to you, nevertheless, that some of the principles announced by the honorable gentleman from New-York,* with an explicitness that reflected the highest credit on his candor, did, when they were first presented, startle me not a little. They were not, perhaps, entirely new. Perhaps I had seen them before in some shadowy and doubtful shape,

> "If shape it might be called, that shape had none
> Distinguishable in member, joint, or limb."

But in the honorable gentleman's speech they were shadowy and doubtful no longer. He exhibited them in forms so boldly and accurately defined—with contours so distinctly traced—with features so pronounced and striking, that I was unconscious for a moment that they might be old acquaintances. I received them as *novi hospites* within these walls, and gazed upon them with aston-

* Mr. King.

ishment and alarm. I have recovered, however, thank God, from this paroxysm of terror, although not from that of astonishment. I have sought and found tranquillity and courage in my former consolatory faith. My reliance is that these principles will obtain no general currency; for, if they should, it requires no gloomy imagination to sadden the perspective of the future. My reliance is upon the unsophisticated good sense and noble spirit of the American people. I have what I may be allowed to call a proud and patriotic trust, that they will give countenance to no principles, which, if followed out to their obvious consequences, will not only shake the goodly fabric of the Union to its foundations, but reduce it to a melancholy ruin. The people of this country, if I do not wholly mistake their character, are wise as well as virtuous. They know the value of that federal association which is to them the single pledge and guarantee of power and peace. Their warm and pious affections will cling to it as to their only hope of prosperity and happiness, in defiance of pernicious abstractions, by whomsoever inculcated, or howsoever seductive and alluring in their aspect.

Sir, it is not an occasion like this, although connected, as contrary to all reasonable expectation it has been, with fearful and disorganizing theories, which would make our estimates, whether fanciful or sound, of natural law, the measure of civil rights and political sovereignty in the social state, that can harm the Union. It must, indeed, be a mighty storm that can push from its moorings this sacred ark of the common safety. It is not every trifling breeze, however it may be made to sob and howl in imitation of the tempest, by the auxiliary breath of the ambitious, the timid, or the discontented, that can drive this gallant vessel, freighted with every thing that is dear to an American bosom, upon the rocks, or lay it a sheer hulk upon the ocean. I may perhaps mistake the flattering suggestions of hope (the greatest of all flatterers, as we are told) for the conclusions of sober reason. Yet it is a pleasing error, if it be an error, and no man shall take it from me. I will continue to cherish the belief, in defiance of the public patronage given by the honorable gentleman from New York, with more than his ordinary zeal and solemnity, to deadly speculations, which, invoking the name of God to aid their faculties for mischief, strike at all establishments, that the union of these states is formed to bear up against far greater shocks than, through all vicissitudes, it is ever likely to encounter. I will continue to cherish the belief, that, although, like all other human institutions, it may for a season be disturbed, or suffer momentary eclipse by the transit across its disk of some malignant planet, it possesses a recuperative force, a redeeming energy in the hearts of the people, that will soon restore it to its wonted calm, and give it back its

accustomed splendor. On such a subject I will discard all hysterical apprehensions—I will deal in no sinister auguries—I will indulge in no hypochondriacal forebodings. I will look forward to the future with gay and cheerful hope, and will make the prospect smile, in fancy at least, until overwhelming reality shall render it no longer possible.

I have said thus much, sir, in order that I may be understood as meeting the constitutional question as a *mere question of interpretation*, and as disdaining to press into the service of my argument upon it prophetic fears of any sort, however they may be countenanced by an avowal, formidable by reason of the high reputation of the individual by whom it has been hazarded, of sentiments the most destructive, which, if not borrowed from, are identical with, the worst visions of the political philosophy of France, when all the elements of discord and misrule were let loose upon that devoted nation. I mean "the infinite perfectibility of man and his institutions," and the resolution of every thing into a state of nature. I have another motive, which at the risk of being misconstrued, I will declare without reserve. With my convictions, and with my feelings, I never will consent to hold confederated America as bound together by a silken cord, which any instrument of mischief may sever, to the view of monarchical foreigners, who look with a jealous eye upon that experiment which is now in progress amongst us in favor of republican freedom. Let them make such prophecies as they will, and nourish such feelings as they may: I will not contribute to the fulfilment of the former, nor minister to the gratification of the latter.

Sir, it was but the other day that we were forbidden (properly forbidden, I am sure, for the prohibition came from you) to assume that there existed any intention to impose a prospective restraint on the domestic legislation of Missouri—a restraint to act upon it contemporaneously with its origin as a state, and to continue adhesive to it through all the stages of its political existence. We are now, however, permitted to know that it is determined by a sort of political surgery to amputate one of the limbs of its local sovereignty, and thus mangled and disparaged, and thus only, to receive it into the bosom of the constitution. It is now avowed that, while *Maine* is to be ushered into the Union with every possible demonstration of studious reverence on our part, and on hers with colors flying, and all the other graceful accompaniments of honorable triumph, this ill-conditioned upstart of the west, this obscure foundling of a wilderness, that was but yesterday the hunting-ground of the savage, is to find her way into the American family as she can, with an humiliating badge of remediless inferiority patched upon her garments, with the mark of recent, qualified manumission upon her, or rather with a brand upon her fore-

head to tell the story of her territorial vassalage, and to perpetuate the memory of her evil propensities. It is now avowed that, while the robust district of Maine is to be seated by the side of her truly respectable parent, coördinate in authority and honor, and is to be dandled into that power and dignity of which she does not stand in need, but which undoubtedly she deserves, the more infantine and feeble Missouri is to be repelled with harshness, and forbidden to come at all, unless with the iron collar of servitude about her neck, instead of the civic crown of republican freedom upon her brows, and is to be doomed forever to leading-strings, unless she will exchange those leading-strings for shackles.

I am told that you have the power to establish this odious and revolting distinction, and I am referred for the proofs of that power to various parts of the constitution, but principally to that part of it which authorizes the admission of new states into the Union. I am myself of opinion that it is in that part only that the advocates for this restriction can, with any hope of success, apply for a license to impose it; and that the efforts which have been made to find it in other portions of that instrument, are too desperate to require to be encountered. I shall, however, examine those other portions before I have done, lest it should be supposed by those who have relied upon them, that what I omit to answer I believe to be unanswerable.

The clause of the constitution which relates to the admission of new states is in these words: "The congress *may* admit new states into this Union," &c., and the advocates for restriction maintain that the use of the word "may" imports discretion to admit or to reject; and that in this discretion is wrapped up another—that of prescribing the terms and conditions of admission, in case you are willing to admit: Cujus est dare ejus est disponere. I will not for the present inquire whether this *involved* discretion to dictate the *terms* of admission belongs to you or not. It is fit that I should first look to *the nature and extent of it.*

I think I may assume that if such a power be any thing but nominal, it is much more than adequate to the present object—that it is a power of vast expansion, to which human sagacity can assign no reasonable limits—that it is a capacious reservoir of authority, from which you may take, in all time to come, as occasion may serve, the means of oppression as well as of benefaction. I know that it professes at this moment to be the chosen instrument of protecting mercy, and would win upon us by its benignant smiles: but I know too it can frown, and play the tyrant, if it be so disposed. Notwithstanding the softness which it now assumes, and the care with which it conceals its giant proportions beneath the deceitful drapery of sentiment, when it next appears before you it may show itself with a sterner countenance and in more awful dimensions.

It is, to speak the truth, sir, a power of colossal size—if indeed it be not an abuse of language to call it by the gentle name of *a power*. Sir, it is a wilderness of powers, of which fancy in her happiest mood is unable to perceive the far-distant and shadowy boundary. Armed with such a power, with religion in one hand and philanthropy in the other, and followed with a goodly train of public and private virtues, you may achieve more conquests over sovereignties not your own than falls to the common lot of even uncommon ambition. By the aid of such a power, skilfully employed, you may "bridge your way" over the Hellespont that separates state legislation from that of congress; and you may do so for pretty much the same purpose with which Xerxes once bridged his way across the Hellespont, that separates Asia from Europe. He did so, in the language of Milton, "the liberties of Greece to yoke." You may do so for the analogous purpose of subjugating and reducing the sovereignties of states, as your taste or convenience may suggest, and fashioning them to your imperial will. There are those in this house who appear to think, and I doubt not sincerely, that the particular restraint now under consideration, is wise, and benevolent, and good: wise as respects the Union—good as respects Missouri—benevolent as respects the unhappy victims whom with a novel kindness it would incarcerate in the south, and bless by decay and extirpation. Let all such beware, lest in their desire for the effect which they believe the restriction will produce, they are too easily satisfied that they have the right to impose it. The moral beauty of the present purpose, or even its political recommendations (whatever they may be) can do nothing for a power like this, which claims to prescribe conditions *ad libitum*, and to be competent to *this* purpose, because it is competent to *all*. This restriction, if it be not smothered in its birth, will be but a small part of the progeny of that prolific power. It teems with a mighty brood, of which this may be entitled to the distinction of comeliness as well as of primogeniture. The rest may want the boasted loveliness of their predecessor, and be even uglier than "Lapland witches."

Perhaps, sir, you will permit me to remind you that it is almost always in company with those considerations that interest the heart in some way or other, that encroachment steals into the world. A bad purpose throws no veil over the licenses of power. It leaves them to be seen as they are. It affords them no protection from the inquiring eye of jealousy. The danger is when a tremendous discretion like the present is attempted to be assumed, as on this occasion, in the names of pity, of religion, of national honor and national prosperity; when encroachment tricks itself out in the robes of piety, or humanity, or addresses itself to pride of country, with all its kindred passions and motives. It is then

that the guardians of the constitution are apt to slumber on their watch, or, if awake, to mistake for lawful rules some pernicious arrogation of power.

I would not discourage *authorized* legislation upon those kindly, generous and noble feelings which Providence has given to us for the best of purposes: but when *power to act* is under discussion, I will not look to the end in view, lest I should become indifferent to the lawfulness of the means. Let us discard from this high constitutional question, all those extrinsic considerations which have been forced into its discussion. Let us endeavor to approach it with a philosophic impartiality of temper—with a sincere desire to ascertain the boundaries of our authority, and a determination to keep our wishes in subjection to our allegiance to the constitution.

Slavery, we are told in many a pamphlet, memorial, and speech, with which the press has lately groaned, is a foul blot upon our otherwise immaculate reputation. Let this be conceded; yet you are no nearer than before to the conclusion that you possess power which may deal with other subjects as effectually as with this. Slavery, we are further told, with some pomp of metaphor, is a canker at the root of all that is excellent in this republican empire, a pestilent disease that is snatching the youthful bloom from its cheek, prostrating its honor and withering its strength. Be it so; yet if you have power to medicine to it in the way proposed, and in virtue of the diploma which you claim, you have also power in the distribution of your political alexipharmics to present the deadliest drugs to every territory that would become a state, and bid it drink or remain a colony forever. Slavery, we are also told, is now "rolling onward with a rapid tide towards the boundless regions of the west," threatening to doom them to sterility and sorrow, unless some potent voice can say to it—Thus far shalt thou go, and no farther. Slavery engenders pride and indolence in him who commands, and inflicts intellectual and moral degradation on him who serves. Slavery, in fine, is unchristian and abominable. Sir, I shall not stop to deny that slavery is all this and more; but I shall not think myself the less authorized to deny that it is for you to stay the course of this dark torrent, by opposing to it a mound raised up by the labors of this portentous discretion on the domain of others—a mound which you cannot erect but through the instrumentality of a trespass of no ordinary kind—not the comparatively innocent trespass that beats down a few blades of grass which the first kind sun or the next refreshing shower may cause to spring again; but that which levels with the ground the lordliest trees of the forest, and claims immortality for the destruction which it inflicts.

I shall not, I am sure, be told that I exaggerate this power. It

has been admitted here and elsewhere that I do not. But I want no such concession. It is manifest that as a discretionary power it is every thing or nothing—that its head is in the clouds, or that it is a mere figment of enthusiastic speculation—that it has no existence, or that it is an alarming vortex ready to swallow up all such portions of the sovereignty of an infant state as you may think fit to cast into it as preparatory to the introduction into the union of the miserable residue. No man can contradict me when I say, that if you have this power, you may squeeze down a new-born sovereign state to the size of a pygmy, and then, taking it between finger and thumb, stick it into some nitch of the Union, and still continue by way of mockery to call it *a state in the sense of the constitution.* You may waste it to a shadow, and then introduce it into the society of flesh and blood an object of scorn and derision. You may sweat and reduce it to a thing of skin and bone, and then place the ominous skeleton beside the ruddy and healthful members of the Union, that it may have leisure to mourn the lamentable difference between itself and its companions, to brood over its disastrous promotion, and to seek in justifiable discontent an opportunity for separation, and insurrection, and rebellion. What may you not do by dexterity and perseverance with this terrific power? You may give to a new state, in the form of terms which it cannot refuse (as I shall show you hereafter), a statute-book of a thousand volumes—providing not for ordinary cases only, but even for possibilities; you may lay the yoke, no matter whether light or heavy, upon the necks of the latest posterity; you may send this searching power into every hamlet for centuries to come, by laws enacted in the spirit of prophecy, and regulating all those dear relations of domestic concern which belong to local legislation, and which even local legislation touches with a delicate and sparing hand. This is the first inroad. But will it be the last? This provision is but a pioneer for others of a more desolating aspect. It is that fatal bridge of which Milton speaks; and when once firmly built, what shall hinder you to pass it when you please for the purpose of plundering power after power, at the expense of new states, as you will still continue to call them, and raising up prospective codes irrevocable and immortal, which shall leave to those states the empty shadows of domestic sovereignty, and convert them into petty pageants, in themselves contemptible, but rendered infinitely more so by the contrast of their humble faculties with the proud and admitted pretensions of those who, having doomed them to the inferiority of vassals, have condescended to take them into their society and under their protection?

I shall be told, perhaps, that you can have no temptation to do all or any part of this, and, moreover, that you can do nothing of yourselves, or, in other words, without the concurrence of the new

state. The last of these suggestions I shall examine by and by. To the first I answer, that it is not incumbent upon me to prove that this discretion will be abused. It is enough for me to prove the vastness of the power as an inducement to make us pause upon it, and to inquire with attention whether there is any apartment in the constitution large enough to give it entertainment. It is more than enough for me to show that, vast as is this power, it is, with reference to mere territories, an *irresponsible* power. Power is irresponsible when it acts upon those who are defenceless against it; who cannot check it, or contribute to check it, in its exercise; who can resist it only by force. The territory of Missouri has no check upon this power. It has no share in the government of the Union. In this body it has no representative. In the other house it has, by courtesy, an agent, who may remonstrate, but cannot vote. That such an irresponsible power is not likely to be abused, who will undertake to assert? If it is not, "experience is a cheat, and fact a liar." The power which England claimed over the colonies was such a power, and it was abused; and hence the revolution. Such a power is always perilous to those who wield it, as well as to those on whom it is exerted. Oppression is but another name for irresponsible power, if history is to be trusted.

The free spirit of our constitution and of our people is no assurance against the propension of unbridled power to abuse, when it acts upon colonial dependants rather than upon ourselves. Free states, as well as despots, have oppressed those whom they were bound to foster; and it is the nature of man that it should be so. The love of power, and the desire to display it when it can be done with impunity, is inherent in the human heart. Turn it out at the door, and it will in again at the window. Power is displayed in its fullest measure, and with a captivating dignity, by restraints and conditions. The *pruritas leges ferendi* is a universal disease; and conditions are laws as far as they go. The vanity of human wisdom, and the presumption of human reason, are proverbial. This vanity and this presumption are often neither reasonable nor wise. Humanity, too, sometimes plays fantastic tricks with power. Time, moreover, is fruitful in temptations to convert discretionary power to all sorts of purposes.

Time, that withers the strength of man, and "strews around him like autumnal leaves the ruins of his proudest monuments," produces great vicissitudes in modes of thinking and feeling. It brings along with it, in its progress, new circumstances; new combinations and modifications of the old; generating new views, motives, and caprices, new fanaticisms of endless variety; in short, new every thing. We ourselves are always changing; and what to-day we have but a small desire to attempt, to-morrow becomes the object of our passionate aspirations.

There is such a thing as enthusiasm, moral, religious, or political, or a compound of all three;—and it is wonderful what it will attempt, and from what imperceptible beginnings it sometimes rises into a mighty agent. Rising from some obscure or unknown source, it first shows itself a petty rivulet, which scarcely murmurs over the pebbles that obstruct its way; then it swells into a fierce torrent, bearing all before it; and then again, like some mountain stream which occasional rains have precipitated upon the valley, it sinks once more into a rivulet, and finally leaves its channel dry. Such a thing has happened. I do not say that it is now happening. It would not become me to say so. But if it should occur, woe to the unlucky territory that should be struggling to make its way into the Union at the moment when the opposing inundation was at its height, and at the same instant this wide Mediterranean of discretionary powers, which it seems is ours, should open up all its sluices, and, with a consentaneous rush, mingle with the turbid waters of the others!

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"New states *may* be admitted by the congress into this Union." It is objected that the word "may" imports power, not obligation; a right to decide; a discretion to grant or refuse.

To this it might be answered, that *power* is *duty* on many occasions. But let it be conceded that it is discretionary. What consequence follows? A power to refuse, in a case like this, does not necessarily involve a power to exact terms. You must look to the *result* which is the declared object of the power. Whether you will arrive at it, or not, may depend on your will; but you cannot compromise with the result intended and professed.

What then is the professed result? To admit a *state* into this *Union.*

What is that Union? A confederation of states equal in sovereignty; capable of every thing which the constitution does not forbid, or authorize congress to forbid. It is an equal Union, between parties equally sovereign. They were sovereign, independently of the Union. The object of the Union was common protection for the exercise of already existing sovereignty. The parties gave up a portion of that sovereignty to insure the remainder. As far as they gave it up by the common compact, they have ceased to be sovereign. The *Union* provides the means of defending the residue; and it is into that Union that a new state is to come. By acceding to it, the new state is placed on the same footing with the original states. It accedes for the same purpose, *i. e.* protection for its unsurrendered sovereignty. If it comes in shorn of its beams; crippled and disparaged beyond the original states, it is not into the *original Union* that it comes; for it is a different sort of Union. The first was Union *inter pares:* this is a Union between

disparates; between giants and a dwarf; between power and feebleness; between full-proportioned sovereignties and a miserable image of power; a thing which that very Union has shrunk and shrivelled from its just size, instead of preserving it in its true dimensions.

It is into "this Union," *i. e.* the Union of the federal constitution, that you are to admit, or refuse to admit. You can admit into no other. You cannot make the Union, as to the new state, what it is not as to the old; for then it is not *this Union* that you open for the entrance of a new party. If you make it enter into a new and additional compact, is it any longer the same Union?

We are told that admitting a state into the Union is a compact. Yes; but what sort of a compact? A compact that it shall be a member of the Union, as the constitution has made it. You cannot new fashion it. You may make a compact to admit; but, when admitted, the original compact prevails. The Union is a compact, with a provision of political power and agents for the accomplishment of its objects. Vary that compact as to a new state—give new energy to that political power, so as to make it act with more force upon a new state than upon the old—make the will of those agents more effectually the arbiter of the fate of a new state than of the old, and it may be confidently said that the new state has not entered into *this Union*, but into another Union. How far the Union has been varied is another question; but that it has been varied is clear.

If I am told that by the bill relative to Missouri, you do not legislate upon a new state, I answer that you do; and I answer further that it is immaterial whether you do or not. But it is upon Missouri, as a state, that your terms and conditions are to act. Until Missouri is a state, the terms and conditions are nothing. You legislate in the shape of terms and conditions, prospectively; and you so legislate upon it that when it comes into the Union it is to be bound by a contract degrading and diminishing its sovereignty, and is to be stripped of rights which the original parties to the Union did not consent to abandon, and which that Union (so far as depends upon it) takes under its protection and guarantee.

Is the right to hold slaves a right which Massachusetts enjoys? If it is, Massachusetts is under this Union in a different character from Missouri. The compact of Union for it is different from the same compact of Union for Missouri. The power of congress is different; every thing which depends upon the Union is, in that respect, different.

But it is immaterial whether you legislate for Missouri as a state or not. The effect of your legislation is to bring it into the Union with a portion of its sovereignty taken away.

But it is a *state* which you are to admit. What is a state in

the sense of the constitution? It is not a state in the general, but a state as you find it in the constitution. A state, generally, is a body politic or independent political society of men. But the state which you are to admit must be more or less than this political entity. What must it be? Ask the constitution. It shows what it means by a state by reference to the parties to it. It must be such a state as Massachusetts, Virginia, and the other members of the American confederacy; a state with full sovereignty except as the constitution restricts it.

It is said that the word *may* necessarily implies the right of prescribing the terms of admission. Those who maintain this are aware that there are no express words (such as *upon such terms and conditions as congress shall think fit*), words which it was natural to expect to find in the constitution, if the effect contended for were meant. They put it, therefore, on the word *may*, and on that alone.

Give to that word all the force you please, what does it import? That congress is not *bound* to admit a new state into this Union. Be it so, for argument's sake. Does it follow that when you consent to admit into this Union a new state, you can make it less in sovereign power than the original parties to that Union; that you can make the Union as to it what it is not as to them; that you can fashion it to your liking, by compelling it to purchase admission into a Union by sacrificing a portion of that power which it is the sole purpose of the Union to maintain in all the plenitude which the Union itself does not impair? Does it follow that you can force upon it an additional compact not found in the compact of Union; that you can make it come into the Union less a *state*, in regard to sovereign power, than its fellows in that Union; that you can cripple its legislative competency (beyond the constitution, which is the pact of Union, to which you make it a party as if it had been originally a party to it) by what you choose to call a *condition*, but which, whatever it may be called, brings the new government into the Union under new obligations to it, and with disparaged power to be protected by it.

In a word, the whole amount of the argument on the other side, is, that you may refuse to admit a new state, and that therefore if you admit, you may prescribe the terms.

The answer to that argument is, that even if you can refuse, you can prescribe no terms which are inconsistent with the act you are to do. You can prescribe no conditions which, if carried into effect, would make the new state less a sovereign state than, under the Union as it stands, it would be. You can prescribe no terms which will make the compact of union between it and the original states essentially different from that compact among the original states. You may admit, or refuse to admit; but if you admit,

you must admit a state in the sense of the constitution, a state with all such sovereignty as belongs to the original parties; and it must be into *this Union* that you are to admit it, not into a Union of your own dictating, formed out of the existing Union by qualifications and new compacts, altering its character and effect, and making it fall short of its protecting energy in reference to the new state, whilst it acquires an energy of another sort, the energy of restraint and destruction.

I have thus endeavored to show, that even if you have a discretion to refuse to admit, you have no discretion, if you are willing to admit, to insist upon any terms that impair the sovereignty of the admitted state as it would otherwise stand in the Union by the constitution which receives it into its bosom. To admit or not, is for you to decide. Admission once conceded, it follows as a corollary that you must take the new state as an equal companion with its fellows; that you cannot recast or new-model the Union *pro hac vice;* but that you must receive it into the *actual Union*, and recognize it as a parcener in the common inheritance, without any other shackles than the rest have, by the constitution, submitted to bear; without any other extinction of power than is the work of the constitution acting indifferently upon all.

I may be told, perhaps, that the restriction, in this case, is the act of Missouri itself; that your law is nothing without its consent, and derives its efficacy from that alone.

I shall have a more suitable occasion to speak on this topic hereafter, when I come to consider the treaty which ceded Louisiana to the United States. But I will say a few words upon it now, of a more general application than it will in that branch of the argument be necessary to use.

A territory cannot surrender to congress, by anticipation, the whole, or a part of the sovereign power, which, by the constitution of the Union, will belong to it when it becomes a state and a member of the Union. Its consent is, therefore, nothing. It is in no situation to make this surrender. It is under the government of congress: if it can barter away a part of its sovereignty, by anticipation, it can do so as to the whole. For where will you stop? If it does not cease to be a state, in the sense of the constitution, with only a certain portion of sovereign power, what other smaller portion will have that effect? If you depart from the standard of the constitution, *i. e.* the quantity of domestic sovereignty left in the first contracting states, and secured by the original compact of Union, where will you get another standard? Consent is no standard,—for consent may be gained to a surrender of all.

No state or territory, in order to become a state, can alienate or surrender any portion of its sovereignty to the Union, or to a sister state, or to a foreign nation. It is under an incapacity to disqual-

ify itself for all the purposes of government left to it in the constitution, by stripping itself of attributes which arise from the natural equality of states, and which the constitution recognizes, not only because it does not deny them, but presumes them to remain as they exist by the law of nature and nations. Inequality in the sovereignty of states is unnatural, and repugnant to all the principles of that law. Hence we find it laid down by the text writers on public law, that "Nature has established a perfect equality of rights between independent nations;" and that "whatever the quality of a free sovereign nation gives to one, it gives to another."* The constitution of the United States proceeds upon the truth of this doctrine. It takes the states as it finds them, FREE AND SOVEREIGN ALIKE BY NATURE. It receives from them portions of their power for the general good, and provides for the exercise of it by organized political bodies. It diminishes the individual sovereignty of each, and transfers, what it subtracts, to the government which it creates: it takes from all alike, and leaves them relatively to each other equal in sovereign power.

The honorable gentleman from New York has put the constitutional argument altogether upon the clause relative to admission of new states into the Union. He does not pretend that you can find the power to restrain, in any extent, elsewhere. It follows that it is not a particular power to impose this restriction, but a power to impose restrictions *ad libitum*. It is competent to this, because it is competent to every thing. But he denies that there can be any power in man to hold in slavery his fellow-creature, and argues, therefore, that the prohibition is no restraint at all, since it does not interfere with the sovereign powers of Missouri.

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One of the most signal errors with which the argument on the other side has abounded, is this of considering the proposed restriction as if levelled at the *introduction or establishment of slavery*. And hence the vehement declamation, which, among other things, has informed us that slavery originated in fraud or violence.

The truth is, that the restriction has no relation, real or pretended, to the right of *making slaves of those who are free*, or of introducing slavery where it does not already exist. It applies to those who are admitted to be already slaves, and who (with their posterity) would continue to be slaves if they should remain where they are at present; and to a place where slavery already exists by the local law. Their civil condition will not be altered by their removal from Virginia, or Carolina, to Missouri. They will not be more slaves than they now are. Their abode, indeed,

* *Vattel, Droit des Gens.* liv. 2, c. 3, s. 36.

will be different, but their bondage the same. Their numbers may possibly be augmented by the diffusion, and I think they will. But this can only happen because their hardships will be mitigated, and their comforts increased. The checks to population, which exist in the older states, will be diminished. The restriction, therefore, does not prevent the establishment of slavery, either with reference to persons or place, but simply inhibits the removal from place to place (the law in each being the same) of a slave, or make his emancipation the consequence of that removal. It acts professedly merely on slavery as it exists, and thus acting restrains its present lawful effects. That slavery, like many other human institutions, originated in fraud or violence, may be conceded; but, however it *originated*, it is established among us, and no man seeks a further establishment of it by new importations of freemen to be converted into slaves. On the contrary, all are anxious to mitigate its evils, by all the means within the reach of the appropriate authority, the domestic legislatures of the different states.

It can be nothing to the purpose of this argument, therefore, as the gentlemen themselves have shaped it, to inquire what was the origin of slavery. What is it now, and who are they that endeavor to innovate upon what it now is (the advocates of this restriction who desire change by unconstitutional means, or its opponents who desire to leave the whole matter to local regulation), are the only questions worthy of attention.

Sir, if we too closely look to the rise and progress of long-sanctioned establishments and unquestioned rights, we may discover other subjects than that of slavery, with which fraud and violence may claim a fearful connection, and over which it may be our interest to throw the mantle of oblivion. What was the settlement of our ancestors in this country but an invasion of the rights of the barbarians who inhabited it? That settlement, with slight exceptions, was effected by the slaughter of those who did no more than defend their native land against the intruders of Europe, or by unequal compacts and purchases, in which feebleness and ignorance had to deal with power and cunning. The savages, who once built their huts where this proud capitol, rising from its recent ashes, exemplifies the sovereignty of the American people, were swept away by the injustice of our fathers, and their domain usurped by force, or obtained by artifices yet more criminal. Our continent was full of those aboriginal inhabitants. Where are they, or their descendants? Either "with years beyond the flood," or driven back by the swelling tide of our population from the borders of the Atlantic to the deserts of the west. You follow still the miserable remnants, and make *contracts* with them that seal their ruin. You purchase their lands, of which they know not the value, in order that you may sell them to advantage,

increase your treasure, and enlarge your empire. Yet further—you pursue as they retire; and they must continue to retire until the Pacific shall stay their retreat, and compel them to pass away as a dream. Will you recur to those scenes of various iniquity for any other purpose than to regret and lament them? Will you pry into them with a view to shake and impair your rights of property and dominion?

But the broad denial of the sovereign right of Missouri, if it shall become a sovereign state, to recognize slavery by its laws, is rested upon a variety of grounds, all of which I will examine.

It is an extraordinary fact, that they who urge this denial with such ardent zeal, stop short of it in their conduct. There are now slaves in Missouri whom they do not insist upon delivering from their chains. Yet if it is incompetent to sovereign power to continue slavery in Missouri, in respect of slaves who may yet be carried thither, show me the power that can continue it in respect of slaves who are there already. Missouri is out of the old limits of the Union; and beyond those limits, it is said, we can give no countenance to slavery, if we can countenance or tolerate it any where. It is plain, that there can be no slaves beyond the Mississippi at this moment, but in virtue of some power to make or keep them so. What sort of power was it that has made or kept them so? Sovereign power it could not be, according to the honorable gentlemen from Pennsylvania and New Hampshire;* and if sovereign power is unequal to such a purpose, less than sovereign power is yet more unequal to it. The laws of Spain and France could do nothing, the laws of the territorial government of Missouri could do nothing towards such a result, if it be a result which no laws, in other words, no sovereignty, could accomplish. The treaty of 1803 could do no more, in this view, than the laws of France, or Spain, or the territorial government of Missouri. A treaty is an act of sovereign power, taking the shape of a compact between the parties to it; and that which sovereign power cannot reach at all, it cannot reach by a treaty. Those who are now held in bondage, therefore, in Missouri, and their issue, are entitled to be free, if there be any truth in the doctrine of the honorable gentlemen; and if the proposed restriction leaves all such in slavery, it thus discredits the very foundation on which it reposes. To be inconsistent is the fate of false principles; but this inconsistency is the more to be remarked, since it cannot be referred to mere considerations of policy without admitting that such considerations may be preferred (without a crime) to what is deemed a paramount and indispensable duty.

It is here too, that I must be permitted to observe, that the hon-

* Mr. Roberts, Mr. Lowrie, and Mr. Morril.

orable gentlemen have taken great pains to show that this restriction is a mere work of supererogation by the principal argument on which they rest the proof of its propriety. Missouri, it is said, can have no power to do what the restriction would prevent. It would be void, therefore, without the restriction. Why then, I ask, is the restriction insisted upon? Restraint implies that there is something to be restrained: but the gentlemen justify the restraint by showing that there is nothing upon which it can operate! They demonstrate the wisdom and necessity of restraint, by demonstrating that with or without restraint, the subject is in the same predicament. This is to combat with a man of straw, and to put fetters upon a shadow.

The gentlemen must, therefore, abandon either their doctrine or their restriction, their argument or their object; for they are directly in conflict, and reciprocally destroy each other. It is evident that they will not abandon their object, and, of course, I must believe, that they hold their argument in as little real estimation as I myself do. The gentlemen can scarcely be sincere believers in their own principle. They have apprehensions, which they endeavor to conceal, that Missouri, as a state, will have power to continue slavery within its limits; and, if they will not be offended, I will venture to compare them, in this particular, with the duellist in Sheridan's comedy of the Rivals, who, affecting to have no fear whatever of his adversary, is, nevertheless, careful to admonish sir Lucius to hold him fast.

Let us take it for granted, however, that they are in earnest in their doctrine, and that it is very necessary to impose what they prove to be an unnecessary restraint: how do they support that doctrine?

The honorable gentleman on the other side * has told us as a proof of his great position (that man cannot enslave his fellow-man, in which is implied that all laws upholding slavery are absolute nullities); that the nations of antiquity as well as of modern times have concurred in laying down that position as incontrovertible.

He refers us in the first place to the Roman law, in which he finds it laid down as a maxim: *Jure naturali omnes homines ab initio liberi nascebantur.* From the manner in which this maxim was pressed upon us, it would not readily have been conjectured that the honorable gentleman who used it had borrowed it from a slave-holding empire, and still less from a book of the Institutes of Justinian, which treats of slavery, and justifies and regulates it. Had he given us the context, we should have had the modifications of which the abstract doctrine was in the judgment of the

* Mr. King.

Roman law susceptible. We should have had an explanation of the competency of that law, to convert, whether justly or unjustly, freedom into servitude, and to maintain the right of a master to the service and obedience of his slave.

The honorable gentleman might also have gone to Greece for a similar maxim and a similar commentary, speculative and practical.

He next refers us to Magna Charta. I am somewhat familiar with Magna Charta, and I am confident that it contains no such maxim as the honorable gentleman thinks he has discovered in it. The great charter was extorted from John, and his feeble son and successor, by haughty slave-holding barons, who thought only of themselves and the commons of England (then inconsiderable), whom they wished to enlist in their efforts against the crown. There is not in it a single word which condemns civil slavery. Freemen only are the objects of its protecting care. "Nullus *liber* homo," is its phraseology. The serfs, who were chained to the soil—the villeins regardant and in gross, were left as it found them. All England was then full of slaves, whose posterity would by law remain slaves as with us, except only that the issue followed the condition of the father instead of the mother. The rule was, "Partus sequitur patrem;" a rule more favorable, undoubtedly, from the very precariousness of its application to the gradual extinction of slavery, than ours, which has been drawn from the Roman law, and is of sure and unavoidable effect.

Still less has the *Petition of Right*, presented to Charles I., by the Long Parliament, to do with the subject of civil slavery. It looked merely, as Magna Charta had not done before it, to the freemen of England, and sought only to protect them against royal prerogative and the encroaching spirit of the Stuarts.

As to the *Bill of Rights*, enacted by the Convention Parliament of 1688, it is almost a duplicate of the Petition of Right, and arose out of the recollection of that political tyranny from which the nation had just escaped, and the recurrence of which it was intended to prevent. It contains no abstract principles. It deals only with practical checks upon the power of the monarch, and in safeguards for institutions essential to the preservation of the public liberty. That it was not designed to anathematize civil slavery may be taken for granted, since at that epoch, and long afterwards, the English government inundated its foreign plantations with slaves, and supplied other nations with them as merchandise, under the sanction of solemn treaties negotiated for that purpose. And here I cannot forbear to remark that we owe it to that same government, when it stood towards us in the relation of parent to child, that involuntary servitude exists in our land, and that we are now deliberating whether the prerogative of correcting its

evils belongs to the national or the state governments. In the early periods of our colonial history, every thing was done by the mother country to encourage the importation of slaves into North America, and the measures which were adopted by the colonial assemblies to prohibit it were uniformly negatived by the crown. It is not therefore our fault, nor the fault of our ancestors, that this calamity has been entailed upon us; and notwithstanding the ostentation with which the loitering abolition of the slave-trade by the British parliament has been vaunted, the principal consideration which at last reconciled it to that measure was, that by suitable care, the slave population in their West India islands (already fully stocked) might be kept up and even increased without the aid of importation. In a word, it was cold calculations of interest, and not the suggestions of humanity, or a respect for the philanthropic principles of Mr. Wilberforce, which produced their tardy abandonment of that abominable traffic.

Of the Declaration of our Independence, which has also been quoted in support of the perilous doctrines now urged upon us, I need not now speak at large. I have shown on a former occasion how idle it is to rely upon that instrument for such a purpose, and I will not fatigue you by mere repetition. The self-evident truths announced in the Declaration of Independence are not truths at all, if taken literally; and the practical conclusions contained in the same passage of that Declaration prove that they were never designed to be so received.

The articles of confederation contain nothing on the subject; whilst the actual constitution recognizes the legal existence of slavery by various provisions. The power of prohibiting the slave-trade is involved in that of regulating commerce; but this is coupled with an express inhibition to the exercise of it for twenty years. How then can that constitution, which expressly permits the importation of slaves, authorize the national government to set on foot a crusade against slavery?

The clause respecting fugitive slaves is affirmative and active in its effects. It is a direct sanction and positive protection of the right of the master to the services of his slave as derived under the local laws of the states. The phraseology in which it is wrapped up still leaves the intention clear, and the words, "persons held to service or labor in one state under the laws thereof," have always been interpreted to extend to the case of slaves, in the various acts of congress which have been passed to give efficacy to the provision, and in the judicial application of those laws. So also in the clause prescribing the ratio of representation; the phrase, "three fifths of all other persons," is equivalent to *slaves*, or it means nothing. And yet we are told that those who are acting under a constitution which sanctions the existence of slavery

in those states which choose to tolerate it, are at liberty to hold that no law can sanction its existence!

It is idle to make the rightfulness of an act the measure of sovereign power. The distinction between sovereign power and the moral right to exercise it, has always been recognized. All political power may be abused; but is it to stop where abuse may begin? The power of declaring war is a power of vast capacity for mischief, and capable of inflicting the most wide-spread desolation. But it is given to congress without stint and without measure. Is a citizen, or are the courts of justice, to inquire whether that, or any other law, is just, before they obey or execute it? And are there any degrees of injustice which will withdraw from sovereign power the capacity of making a given law?

But sovereignty is said to be *deputed* power. Deputed—by whom? By the people, because the power is theirs. And if it be theirs, does not the restriction take it away? Examine the constitution of the Union, and it will be seen that the *people* of the states are regarded as well as the *states* themselves. The constitution was made by the people, and ratified by the people.

Is it fit, then, to hold that all the sovereignty of a state is in the government of the state? So much is there as the people grant; and the people can take it away, or give more, or new model what they have already granted. It is this right which the proposed restriction takes from Missouri. You give them an immortal constitution, depending on your will, not on theirs. The people and their posterity are to be bound forever by this restriction; and upon the same principle, any other restriction may be imposed. Where, then, is their power to change the constitution, and to devolve new sovereignty upon the state government? You limit their sovereign capacity to do it; and when you talk of a state, you mean the people as well as the government. The people are the source of all power—you dry up that source. They are the reservoir—you take out of it what suits you.

It is said that this government is a government of deputed powers. So is every government; and what power is not deputed remains. But the people of the *United States* can give it more if they please, as the people of each state can do in respect to its own government. And here it is well to remember that this is a government of enumerated as well as deputed powers; and to examine the clause as to the admission of new states, with that principle in view. Now assume that it is a part of the sovereign power of *the people of Missouri* to continue slavery, and to devolve that power upon its government—and then to take it away—and then to give it again. The government is their creature; the means of exercising their sovereignty, and they can vary those means at their pleasure. Independently of the Union, their power

would be unlimited. By coming into the Union, they part with some of it, and are thus less sovereign.

Let us then see whether they part with this power.

If they have parted with this portion of sovereign power, it must be under that clause of the national constitution which gives to congress "power to admit new states into this Union." And it is said that this necessarily implies the authority of prescribing the conditions, upon which such new states shall be admitted. This has been put into the form of a syllogism, which is thus stated:

Major. Every universal proposition includes all the means, manner and terms of the act to which it relates.

Minor. But this is a universal proposition.

Conclusion. Therefore, the means, manner, and terms are involved in it.

But this syllogism is fallacious, and any thing else may be proved by it, by assuming one of its members which involves the conclusion. The *minor* is a mere postulate.

Take it in this way:

Major. None but a universal proposition includes in itself the terms and conditions of the act to be done.

Minor. But this is not such a universal proposition.

Conclusion. Therefore, it does not contain in itself the terms and conditions of the act.

In both cases the minor is a gratuitous postulate.

But I deny that a universal proposition, *as to a specific act*, involves the terms and conditions of that act, so as to vary it and substitute another and a different act in its place. The proposition contained in the clause is *universal* in one sense only. It is *particular* in another. It is universal as to the power to admit or refuse. It is particular as to the being or thing to be admitted, and the compact by which it is to be admitted. The sophistry consists in extending the universal part of the proposition in such a manner as to make out of it another universal proposition. It consists in confounding the right to produce or to refuse to produce a *certain defined effect*, with a right to produce a *different effect* by refusing otherwise to produce any effect at all. It makes the *actual right* the instrument of obtaining *another right*, with which the actual right is incompatible. It makes, in a word, lawful power the instrument of unlawful usurpation. The *result* is kept out of sight by this mode of reasoning. The discretion to decline that result, which is called a universal proposition, is singly obtruded upon us. But in order to reason correctly, you must keep in view the defined result, as well as the discretion to produce or to decline to produce it. The result is the particular part of the proposition; therefore, the discretion to produce or decline it, is the universal part of it. But because the *last* is found to be universal,

it is taken for granted that the *first* is also universal. This is a sophism too manifest to impose.

But discarding the machinery of syllogisms as unfit for such a discussion as this, let us look at the clause with a view of interpreting it by the rules of sound logic and common sense.

The power is "to admit new states into this Union;" and it may be safely conceded that here is discretion to admit or refuse. The question is, what must we do if we do any thing? What must we admit, and into what? The answer is *a state;* and into *this Union.*

The distinction between federal rights and local rights is an idle distinction. Because the new state acquires *federal* rights, it is not, therefore, in *this Union.* The Union is a compact; and is it an equal party to that compact, because it has equal federal rights?

How is the Union formed? By equal contributions of power. Make one member sacrifice more than other, and it becomes unequal. The compact is of two parts.

1. The thing obtained—federal rights.
2. The price paid—local sovereignty.

You may disturb the balance of the Union, either by diminishing the thing acquired, or increasing the sacrifice paid.

What were the purposes of coming into the Union among the original states? The states were originally sovereign without limit, as to foreign and domestic concerns. But being incapable of protecting themselves singly, they entered into the Union to defend themselves against foreign violence. The domestic concerns of the people were not, in general, to be acted on by it. The security of the power of managing them by domestic legislation, is one of the great objects of the Union. The Union is a *means,* not an *end.* By requiring greater sacrifices of domestic power, the end is sacrificed to the means. Suppose the surrender of all, or nearly all, the domestic powers of legislation were required; the means would there have swallowed up the end.

The argument that the compact may be enforced, shows that the federal predicament is changed. The power of the Union not only acts on persons or citizens, but on the faculty of the government, and restrains it in a way which the constitution no where authorizes. This new obligation takes away a right which is expressly "reserved to the people or the states," since it is no where granted to the government of the Union. You cannot do indirectly what you cannot do directly. It is said that *this Union* is competent to make compacts. Who doubts it? But can you make *this compact?* I insist that you cannot make it, because it is repugnant to the thing to be done.

The effect of such a compact would be to produce that inequality

in the Union, to which the constitution, in all its provisions, is adverse. Every thing in it looks to equality among the members of the Union. Under it, you cannot produce inequality. Nor can you get beforehand of the constitution, and do it by anticipation. Wait until a state is in the Union, and you cannot do it: yet it is only upon the state in the Union that what you do begins to act.

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But it seems, that although the proposed restriction may not be justified by the clause of the constitution which gives power to admit new states into the Union, separately considered, there are other parts of the constitution, which, combined with that clause, will warrant it. And, first, we are informed that there is a clause in this instrument which declares that congress *shall* guarantee to every state a republican form of government; that slavery and such a form of government are incompatible; and finally, as a conclusion from these premises, that congress not only have a *right*, but are *bound* to exclude slavery from a new state. Here again, sir, there is an edifying inconsistency between the argument and the measure which it professes to vindicate. By the argument it is maintained that Missouri cannot have a republican form of government, and at the same time tolerate negro slavery. By the measure it is admitted that Missouri may tolerate slavery, as to persons already in bondage there, and be nevertheless fit to be received into the Union. What sort of constitutional mandate is this, which can thus be made to bend, and truckle, and compromise, as if it were a simple rule of expediency that might admit of exceptions upon motives of countervailing expediency. There can be no such pliancy in the peremptory provisions of the constitution. They cannot be obeyed by moieties and violated in the same ratio. They must be followed out to their full extent, or treated with that decent neglect which has at least the merit of forbearing to render contumacy obtrusive by an ostentatious display of the very duty which we in part abandon. If the decalogue could be observed in this casuistical manner, we might be grievous sinners, and yet be liable to no reproach. We might persist in all our *habitual* irregularities, and still be spotless. We might, for example, continue to covet our neighbors' goods, provided they were the same neighbors whose goods we had before coveted; and so of all the other commandments.

Will the gentlemen tell us that it is the *quantity of slaves*, not the *quality of slavery*, which takes from a government the republican form? Will they tell us (for they have not yet told us) that there are constitutional grounds (to say nothing of common sense), upon which the slavery which now exists in Missouri may be reconciled with a republican form of government, while any addition to the *number of its slaves* (the quality of slavery remaining the

same) from the other states, will be repugnant to that form, and metamorphose it into some nondescript government disowned by the constitution? They cannot have recourse to the treaty of 1803 for such a distinction, since, independently of what I have before observed on that head, the gentlemen have contended that the treaty has nothing to do with the matter. They have cut themselves off from all chance of a convenient distinction in or out of that treaty, by insisting that slavery beyond the old United States is rejected by the constitution, and by the law of God, as discoverable by the aid of either reason or revelation; and moreover, that the treaty does not include the case, and if it did, could not make it better. They have therefore completely discredited their own theory by their own practice, and left us no theory worthy of being seriously controverted. This peculiarity in reasoning of giving out a universal principle, and coupling with it a practical concession that it is wholly fallacious, has indeed run through the greater part of the arguments on the other side; but it is not, as I think, the more imposing on that account, or the less liable to the criticism which I have here bestowed upon it.

There is a remarkable inaccuracy on this branch of the subject, into which the gentlemen have fallen, and to which I will give a moment's attention without laying unnecessary stress upon it. The government of a new state, as well as of an old state, must, I agree, be republican in its *form*. But it has not been very clearly explained what the *laws*, which such a government may enact, can have to do with its *form*. The form of the government is material only as it furnishes a security that those laws will protect, and promote the public happiness, and be made in a republican spirit. The people being, in such a government, the fountain of all power, and their servants being periodically responsible to them for its exercise, the constitution of the Union takes for granted (except so far as it imposes limitations), that every such exercise will be just and salutary. The introduction or continuance of civil slavery is manifestly the mere result of the power of making laws. It does not in any degree enter into the form of the government. It presupposes that form already settled, and takes its rise not from the particular frame of the government, but from the general power which every government involves. Make the government what you will in its organization and in the distribution of its authorities, the introduction or continuance of involuntary servitude by the legislative power which it has created can have no influence on its preëstablished form, whether monarchical, aristocratical, or republican. The form of government is still one thing, and the law, being a simple exertion of the ordinary faculty of legislation by those to whom that form of government has intrusted it, another. The gentlemen, however, identify an act of legislation

sanctioning involuntary servitude with the form of government itself, and then assure us that the last is changed retroactively by the first, and is no longer republican!

But let us proceed to take a rapid glance at the reasons which have been assigned for this notion that involuntary servitude and a republican form of government are perfect antipathies. The gentleman from New Hampshire * has defined a republican government to be that in which all the *men* participate in its power and privileges; from whence it follows that where there are slaves, it can have no existence. A definition is no proof, however, and even if it be dignified (as I think it was) with the name of a maxim, the matter is not much mended. It is lord Bacon who says "that nothing is so easily made as a maxim;" and certainly a definition is manufactured with equal facility. A political maxim is the work of induction, and cannot stand against experience, or stand on any thing but experience. But this maxim, or definition, or whatever else it may be, sets fact at defiance. If you go back to antiquity, you will obtain no countenance for this hypothesis; and if you look at home, you will gain still less. I have read that Sparta, and Rome, and Athens, and many others of the ancient family, were republics. They were so in form, undoubtedly—the last approaching nearer to a perfect democracy than any other government which has yet been known in the world. Judging of them also by their fruits, they were of the highest order of republics. Sparta could scarcely be any other than a republic, when a Spartan matron could say to her son, just marching to battle, RETURN VICTORIOUS, OR RETURN NO MORE. It was the unconquerable spirit of liberty, nurtured by republican habits and institutions, that illustrated the pass of Thermopylæ. Yet slavery was not only tolerated in Sparta, but was established by one of the fundamental laws of Lycurgus, having for its object the encouragement of that very spirit. Attica was full of slaves; yet the love of liberty was its characteristic. What else was it that foiled the whole power of Persia at Marathon and Salamis? What other soil than that which the genial sun of republican freedom illuminated and warmed, could have produced such men as Leonidas and Miltiades, Themistocles and Epaminondas? Of Rome it would be superfluous to speak at large. It is sufficient to name the mighty mistress of the world, before Sylla gave the first stab to her liberties, and the great dictator accomplished their final ruin, to be reminded of the practicability of union between civil slavery and an ardent love of liberty cherished by republican establishments.

If we return home for instruction upon this point, we perceive that same union exemplified in many a state, in which "Liberty

* Mr. Morril.

has a temple in every house, an altar in every heart," while involuntary servitude is seen in every direction. Is it denied that those states possess a republican form of government? If it is, why does our power of correction sleep? Why is the constitutional guaranty suffered to be inactive? Why am I permitted to fatigue you, as the representative of a slave-holding state, with the discussion of the *nagæ canoræ* (for so I think them) that have been forced into this debate contrary to all the remonstrances of taste and prudence? Do gentlemen perceive the consequences to which their arguments must lead, if they are of any value? Do they reflect that they lead to emancipation in the old United States—or to an exclusion of Delaware, Maryland, and all the south, and a great portion of the west from the Union? My honorable friend from Virginia has no business here, if this disorganizing creed be any thing but the production of a heated brain. The state to which I belong must "perform a lustration"—must purge and purify herself from the feculence of civil slavery, and emulate the states of the north in their zeal for throwing down the gloomy idol which we are said to worship, before her senators can have any title to appear in this high assembly. It will be in vain to urge that the old United States are exceptions to the rule; or rather (as the gentlemen express it), that they have no *disposition* to apply the rule to them. There can be no exceptions, by implication only, to such a rule; and expressions which justify the exemption of the old states by inference, will justify the like exemption of Missouri, unless they point exclusively to them, as I have shown they do not. The guarded manner, too, in which some of the gentlemen have occasionally expressed themselves on this subject, is somewhat alarming. They have no *disposition* to meddle with slavery in the old United States. Perhaps not; but who shall answer for their successors? Who shall furnish a pledge that the principle once ingrafted into the constitution, will not grow, and spread, and fructify, and overshadow the whole land? It is the natural office of such a principle to wrestle with slavery, wheresoever it finds it. New states, colonized by the apostles of this principle, will enable it to set on foot a fanatical crusade against all who still continue to tolerate it, although no practicable means are pointed out by which they can get rid of it consistently with their own safety. At any rate, a present forbearing disposition, in a few or in many, is not a security upon which much reliance can be placed upon a subject as to which so many selfish interests and ardent feelings are connected with the cold calculations of policy. Admitting, however, that the old United States are in no danger from this principle, why is it so? There can be no other answer (which these zealous enemies of slavery can use) than that the constitution recognizes slavery as existing or capable of existing in

those states. The constitution, then, admits that slavery and a republican form of government are not incongruous. It associates and binds them up together, and repudiates this wild imagination which the gentlemen have pressed upon us with such an air of triumph. But the constitution does more, as I have heretofore proved. It concedes that slavery may exist in a new state, as well as in an old one—since the language in which it recognizes slavery comprehends new states as well as actual. I trust then that I shall be forgiven if I suggest, that no eccentricity in argument can be more trying to human patience, than a formal assertion that a constitution, to which slave-holding states were the most numerous parties, in which slaves are treated as property as well as persons, and provision is made for the security of that property, and even for an augmentation of it, by a temporary importation from Africa, a clause commanding congress to guaranty a republican form of government to those very states, as well as to others, authorizes you to determine that slavery and a republican form of government cannot coëxist.

But if a republican form of government is that in which *all* the men have a share in the public power, the slave-holding states will not alone retire from the Union. The constitutions of some of the other states do not sanction universal suffrage, or universal eligibility. They require citizenship, and age, and a certain amount of property, to give a title to vote or to be voted for; and they who have not those qualifications are just as much disfranchised, with regard to the government and its power, as if they were slaves. They have civil rights, indeed (and so have slaves in a less degree); but they have no share in the government. Their province is to obey the laws, not to assist in making them. All such states must therefore be forisfamiliated with Virginia and the rest, or change their system; for the constitution, being absolutely silent on those subjects, will afford them no protection. The Union might thus be reduced from a Union to a unit. Who does not see that such conclusions flow from false notions; that the true theory of a republican government is mistaken; and that in such a government, rights, political and civil, may be qualified by the fundamental law, upon such inducements as the freemen of the country deem sufficient? That civil rights may be qualified as well as political, is proved by a thousand examples. Minors, resident aliens, who are in a course of naturalization—the other sex, whether maids, or wives, or widows, furnish sufficient practical proofs of this.

Again—if we are to entertain these hopeful abstractions, and to resolve all establishments into their imaginary elements in order to recast them upon some Utopian plan, and if it be true that all the *men* in a republican government must help to wield its power, and

be equal in rights, I beg leave to ask the honorable gentleman from New Hampshire, And why not all the *women*? They too are God's creatures, and not only very fair, but very rational creatures; and our great ancestor, if we are to give credit to Milton, accounted them the "wisest, virtuousest, discreetest, best;" although to say the truth, he had but one specimen from which to draw his conclusion, and possibly if he had had more, would not have drawn it at all. They have, moreover, acknowledged civil rights in abundance, and upon abstract principles more than their masculine rulers allow them, in fact. Some monarchies, too, do not exclude them from the throne. We have all read of Elizabeth of England, of Catharine of Russia, of Semiramis, and Zenobia, and a long list of royal and imperial dames, about as good as an equal list of royal and imperial lords. Why is it that their exclusion from the power of a popular government is not destructive of its republican character? I do not address this question to the honorable gentleman's gallantry, but to his abstraction, and his theories, and his notions of the infinite perfectibility of human institutions, borrowed from Godwin and the turbulent philosophers of France. For my own part, sir, if I may have leave to say so much in the presence of this mixed uncommon audience, I confess I am no friend to female government, unless indeed it be that which reposes on gentleness, and modesty, and virtue, and feminine grace, and delicacy; and how powerful a government that is, we have all of us, as I suspect, at some time or other experienced! But if the ultra republican doctrines which have now been broached should ever gain ground among us, I should not be surprised if some romantic reformer, treading in the footsteps of Mrs. Wolstonecraft, should propose to repeal our republican law salique, and claim for our wives and daughters a full participation in political power, and to add to it that domestic power, which in some families, as I have heard, is as absolute and unrepublican as any power can be.

I have thus far allowed the honorable gentlemen to avail themselves of their assumption that the constitutional command to guaranty to the states a republican form of government, gives power to coerce those states in the adjustment of the details of their constitutions upon theoretical speculations. But surely it is passing strange that any man, who thinks at all, can view this salutary command as the grant of a power so monstrous; or look at it in any other light than as a protecting mandate to congress to interpose with the force and authority of the Union against that violence and usurpation, by which a member of it might otherwise be oppressed by profligate and powerful individuals, or ambitious and unprincipled factions.

In a word, the resort to this portion of the constitution for an argument in favor of the proposed restriction, is one of those ex-

travagances (I hope I shall not offend by this expression) which may excite our admiration, but cannot call for a very rigorous refutation. I have dealt with it accordingly, and have now done with it.

We are next invited to study that clause of the constitution which relates to the migration or importation, before the year 1808, of such persons as any of the states then existing should think proper to admit. It runs thus: "The migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by the congress prior to the year one thousand eight hundred and eight; but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person."

It is said that this clause empowers congress, after the year 1808, to prohibit the passage of slaves from state to state, and the word "migration" is relied upon for that purpose.

I will not say that the proof of the existence of a power by a clause which, as far as it goes, denies it is always inadmissible; but I will say that it is always feeble. On this occasion, it is singularly so. The power, in an affirmative shape, cannot be found in the constitution; or if it can, it is equivocal and unsatisfactory. How do the gentlemen supply this deficiency? by the aid of a negative provision in an article of the constitution in which many restrictions are inserted *ex abundanti cautela*, from which it is plainly impossible to infer that the power to which they apply would otherwise have existed. Thus—"No bill of attainder or ex post facto law shall be passed." Take away the restriction—could congress pass a bill of attainder, the trial by jury in criminal cases being expressly secured by the constitution? The inference, therefore, from the prohibition in question, whatever may be its meaning, to the power which it is supposed to restrain, but which you cannot lay your finger upon with any pretensions to certainty, must be a very doubtful one. But the import of the prohibition is also doubtful, as the gentlemen themselves admit. So that a doubtful power is to be made certain by a yet more doubtful negative upon power; or, rather, a doubtful negative, where there is no evidence of the corresponding affirmative, is to make out the affirmative, and to justify us in acting upon it, in a matter of such high moment, that *questionable* power should not dare to approach it. If the negative were perfectly clear in its import, the conclusion which has been drawn from it would be rash, because it might have proceeded, as some of the negatives in whose company it is found evidently did proceed, from great anxiety to prevent such assumptions of authority as are now attempted. But when it is conceded, that the supposed import of this negative (as to the term *migration*) is ambiguous, and that it may have been used in

a very different sense from that which is imputed to it, the conclusion acquires a character of boldness, which, however some may admire, the wise and reflecting will not fail to condemn.

In the construction of this clause, the first remark that occurs is, that the word MIGRATION is associated with the word IMPORTATION. I do not insist that *noscitur a sociis* is as good a rule in matters of interpretation as in common life; but it is, nevertheless, of considerable weight when the associated words are not qualified by any phrases that disturb the effect of their fellowship; and unless it announces (as in this case it does not) by specific phrases combined with the associated term, a different intention. Moreover, the ordinary unrestricted import of the word *migration* is what I have here supposed. A removal from district to district, within the same jurisdiction, is never denominated a *migration* of persons. I will concede to the honorable gentlemen, if they will accept the concession, that ants may be said to migrate when they go from one ant-hill to another at no great distance from it. But even then they could not be said to migrate, if each ant-hill was their home in virtue of some federal compact with insects like themselves. But, however this may be, it should seem to be certain that human beings do not *migrate*, in the sense of a constitution, simply because they transplant themselves from one place, to which that constitution extends, to another which it equally covers.

If this word *migration* applied to freemen, and not to slaves, it would be clear that removal from state to state would not be comprehended within it. Why, then, if you choose to apply it to slaves, does it take another meaning as to the place from whence they are to come?

Sir, if we once depart from the usual acceptation of this term, fortified as it is by its union with another in which there is nothing in this respect equivocal, will gentlemen please to intimate the point at which we are to stop? *Migration* means, as they contend, a removal from state to state, within the pale of the common government. Why not a removal also from county to county, within a particular state—from plantation to plantation—from farm to farm—from hovel to hovel? Why not any exertion of the power of locomotion? I protest I do not see, if this arbitrary limitation of the natural sense of the term *migration* be warrantable, that a person to whom it applies may not be compelled to remain immovable all the days of his life (which could not well be many) in the very spot, literally speaking, in which it was his good or his bad fortune to be born.

Whatever may be the latitude in which the word "persons" is capable of being received, it is not denied that the word "importation" indicates a bringing in from a jurisdiction foreign to the

United States. The two *termini* of the *importation*, here spoken of, are a foreign country and the American Union; the first the *terminus a quo*, the second the *terminus ad quem*. The word *migration* stands in simple connection with it, and of course is left to the full influence of that connection. The natural conclusion is, that the same *termini* belong to each, or, in other words, that if the *importation* must be abroad, so also must be the *migration;* no other *termini* being assigned to the one which are not manifestly characteristic of the other. This conclusion is so obvious, that to repel it, the word *migration* requires, as an appendage, explanatory phraseology, giving to it a different beginning from that of *importation.* To justify the conclusion that it was intended to mean a removal from state to state, each within the sphere of the constitution in which it is used, the addition of the words *from one to another state in this Union*, were indispensable. By the omission of these words, the word "migration" is compelled to take every sense of which it is fairly susceptible from its immediate neighbor "importation." In this view it means a *coming*, as "importation" means a *bringing*, from a foreign jurisdiction into the United States. That it is susceptible of this meaning, nobody doubts. I go further. It can have no other meaning in the place in which it is found. It is found in the constitution of this Union; which, when it speaks of *migration* as of a general concern, must be supposed to have in view a migration into the domain which itself embraces as a general government.

Migration, then, even if it comprehends slaves, does not mean the removal of them from state to state, but means the coming of slaves from places beyond their limits and their power. And if this be so, the gentlemen gain nothing for their argument by showing that slaves were the objects of this term.

An honorable gentleman from Rhode Island,* whose speech was distinguished for its ability, and for an admirable force of reasoning, as well as by the moderation and mildness of its spirit, informed us, with less discretion than in general he exhibited, that the word "migration" was introduced into this clause at the instance of some of the southern states, who wished by its instrumentality to guard against a prohibition by congress of the passage into those states of slaves from other states. He has given us no authority for this supposition, and it is, therefore, a gratuitous one. How improbable it is, a moment's reflection will convince him. The African slave-trade being open during the whole of the time to which the entire clause in question referred, such a purpose could scarcely be entertained; but if it had been entertained, and there was believed to be a necessity for securing it, by a restriction

* Mr. Burrill.

upon the power of congress to interfere with it, is it possible that they who deemed it important would have contented themselves with a vague restraint, which was calculated to operate in almost any other manner than that which they desired? If fear and jealousy, such as the honorable gentleman has described, had dictated this provision, a better term than that of "migration," simple and unqualified, and joined too with the word "importation," would have been found to tranquillize those fears and satisfy that jealousy. Fear and jealousy are watchful, and are rarely seen to accept a security short of their object, and less rarely to shape that security of their own accord, in such a way as to make it no security at all. They always seek an explicit guaranty; and that this is not such a guaranty this debate has proved, if it has proved nothing else.

Sir, I shall not be understood by what I have said to admit that the word *migration* refers to *slaves*. I have contended only that if it does refer to slaves, it is in this clause synonymous with *importation;* and that it cannot mean the mere passage of slaves, with or without their masters, from one state in the Union to another.

But I now deny that it refers to slaves at all. I am not for any man's opinions or his histories upon this subject. I am not accustomed *jurare in verba magistri.* I shall take the clause as I find it, and do my best to interpret it.

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[After going through with that part of his argument relating to this clause of the constitution, Mr. Pinkney concluded his speech by expressing a hope that (what he deemed) the perilous principles urged by those in favor of the restriction upon the new state would be disavowed or explained, or that at all events the application of them to the subject under discussion would not be pressed, but that it might be disposed of in a manner satisfactory to all by a prospective prohibition of slavery in the territory to the north and west of Missouri.]

SPEECH OF JOHN RANDOLPH

ON

THE TARIFF BILL,

DELIVERED IN THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES, APRIL 15, 1824.

I AM, Mr. Speaker, practising no deception upon myself, much less upon the house, when I say, that if I had consulted my own feelings and inclinations, I should not have troubled the house, exhausted as it is, and as I am, with any further remarks upon this subject. I come to the discharge of this task, not merely with reluctance, but with disgust; jaded, worn down, abraded, I may say, as I am by long attendance upon this body, and continued stretch of the attention upon this subject. I come to it, however, at the suggestion, and in pursuance of the wishes of those, whose wishes are to me, in all matters touching my public duty, paramount law; I speak with those reservations, of course, which every moral agent must be supposed to make to himself.

It was not more to my surprise, than to my disappointment, that on my return to the house, after a necessary absence of a few days, on indispensable business, I found it engaged in discussing the general principle of the bill, when its details were under consideration. If I had expected such a turn in the debate, I would, at any private sacrifice, however great, have remained a spectator and auditor of that discussion. With the exception of the speech, already published, of my worthy colleague on my right (Mr. P. P. Barbour), I have been nearly deprived of the benefit of the discussion which has taken place. Many weeks have been occupied with this bill (I hope the house will pardon me for saying so) before I took the slightest part in the deliberations of the details; and I now sincerely regret that I had not firmness enough to adhere to the resolution which I had laid down to myself, in the early stage of the debate, not to take any part in the discussion of the details of the measure. But, as I trust, what I now have to say upon this subject, although more and better things have been said by others, may not be the same that they have said, or may not be said in

the same manner. I here borrow the language of a man who has been heretofore conspicuous in the councils of the country; of one who was unrivalled for readiness and dexterity in debate; who was long without an equal on the floor of this body; who contributed as much to the revolution of 1801, as any man in this nation, and derived as little benefit from it; as, to use the words of that celebrated man, what I have to say is not that which has been said by others, and will not be said in their manner, the house will, I trust, have patience with me during the time that my strength will allow me to occupy their attention. And I beg them to understand, that the notes which I hold in my hand are not the notes on which I mean to speak, but of what others have spoken, and from which I will make the smallest selection in my power.

Here permit me to say, that I am obliged, and with great reluctance, to differ from my worthy colleague, who has taken so conspicuous a part in this debate, about one fact, which I will call to his recollection, for I am sure it was in his memory, though sleeping. He has undertaken to state the causes by which the difference in the relative condition of various parts of the Union has been produced; but my worthy colleague has omitted to state the *primum mobile* of the commerce and manufactures to which a portion of the country, that I need not name, owes its present prosperity and wealth. That *primum mobile* was southern capital. I speak not now of transactions *quorum pars minima fui*, but of things of which, nevertheless, I have a contemporaneous recollection. I say, without the fear of contradiction, then, that in consequence of the enormous depreciation of the evidences of the public debt of this country—the debt proper of the United States (to which must be added an item of not less than twenty millions of dollars, for the state debts assumed by the United States) being bought up and almost engrossed by the people of what were then called the Northern States—a measure which nobody dreamt any thing about, of which nobody had the slightest suspicion—I mean the assumption of the state debts by the federal government—these debts being bought up for a mere song, a capital of eighty millions of dollars, or, in other words, a credit to that amount, bearing an interest of six per cent. per annum (with the exception of nineteen millions, the interest of that debt, which bore an interest of *three* per cent.)—a capital of eighty millions of dollars was poured, in a single day, into the coffers of the north; and to *that* cause we may mainly ascribe the difference, so disastrous to the south, between that country and the other portion of this Union, to which I have alluded. When we, roused by the sufferings of our brethren of Boston, entered into the contest with the mother country, and when we came out of it—when this constitution was adopted, *we* were comparatively rich; *they* were positively poor.

What is now our relative situation? They are flourishing and rich: we are tributary to them, not only through the medium of the public debt of which I have spoken, but also through the medium of the pension list, nearly the whole amount of which is disbursed in the Eastern States—and to this creation of a day is to be ascribed the difference of our relative situation (I hope my worthy colleague will not consider any thing that I say as conflicting with his general principles, to which I heartily subscribe). Yes, sir, and the price paid for the creation of all that portion of this capital, which consisted of the assumed debts of the states, was the *immense* boon of fixing the seat of government where it now is. And I advert to this bargain, because I wish to show to every member of this house, and, if it were possible, to every individual of this nation, the most tremendous and calamitous results of political bargaining.

Sir, when are we to have enough of this tariff question? In 1816 it was supposed to be settled. Only three years thereafter, another proposition for increasing it was sent from this house to the senate, *baited* with a tax of four cents per pound on brown sugar. It was fortunately rejected in that body. In what manner *this bill* is baited, it does not become me to say; but I have too distinct a recollection of the vote in committee of the whole, on the duty upon molasses, and afterwards of the vote in the house on the same question: of the votes of more than one of the states on that question, not to mark it well. I do not say that the change of the vote on that question was affected by any man's *voting* against his own motion: but I do not hesitate to say that it was effected by one man's electioneering against his own motion. I am very glad, Mr. Speaker, that old Massachusetts Bay, and the province of Maine and Sagadahock, by whom we stood in the days of the revolution, now stand by the south, and will not aid in fixing on us this system of taxation, compared with which the taxation of Mr. Grenville and lord North was as nothing. I speak with knowledge of what I say, when I declare, that this bill is an attempt to reduce the country, south of Mason and Dixon's line and east of the Alleghany mountains, to a state of worse than colonial bondage; a state to which the domination of Great Britain was, in my judgment, far preferable; and I trust I shall always have the fearless integrity to utter any political sentiment which the head sanctions and the heart ratifies; for the British parliament never would have dared to lay such duties on our imports, or their exports to us, either "*at home*" or here, as is now proposed to be laid upon the imports from abroad. At that time we had the command of the market of the vast dominions then subject, and we should have had those which have since been subjected, to the British empire; we enjoyed a free trade eminently superior to

any thing that we can enjoy, if this bill shall go into operation. It is a sacrifice of the interests of a part of this nation to the ideal benefit of the rest. It marks us out as the victims of a worse than Egyptian bondage. It is a barter of so much of our rights, of so much of the fruits of our labor, for political power to be transferred to other hands. It ought to be met, and I trust it will be met, in the southern country, as was the stamp act, and by all those measures, which I will not detain the house by recapitulating, which succeeded the stamp act, and produced the final breach with the mother country, which it took about ten years to bring about, as I trust, in my conscience, it will not take as long to bring about similar results from this measure, should it become a law.

All policy is very suspicious, says an eminent statesman, that sacrifices the interest of any part of a community to the ideal good of the whole; and those governments only are tolerable, where, by the necessary construction of the political machine, the interests of all the parts are obliged to be protected by it. Here is a district of country extending from the Patapsco to the gulf of Mexico, from the Alleghany to the Atlantic; a district, which, taking in all that part of Maryland lying south of the Patapsco and east of Elk river, raises five sixths of all the exports of this country, that are of home growth. I have in my hand the official statements which prove it, but which I will not weary the house by reading—in all this country—yes, sir, and I bless God for it; for with all the fantastical and preposterous theories about the rights of man (the *theories*, not the rights themselves, I speak of), there is nothing but power that can restrain power. I bless God, that, in this insulted, oppressed, and outraged region, we are, as to our counsels in regard to this measure, but as one man; that there exists on the subject but one feeling and one interest. We are proscribed and put to the bar: and if we do not feel, and, feeling, do not act, we are bastards to those fathers who achieved the revolution: then shall we deserve to make our bricks without straw. There is no case on record, in which a proposition like this, suddenly changing the whole frame of a country's polity, tearing asunder every ligature of the body politic, was ever carried by a lean majority of two or three votes, unless it be the usurpation of the septennial act, which passed the British parliament, by, I think, a majority of one vote, the same that laid the tax on cotton bagging. I do not stop here, sir, to argue about the constitutionality of this bill; I consider the constitution a dead letter: I consider it to consist, at this time, of the power of the general government and the power of the states: that is the constitution. You may entrench yourself in parchment to the teeth, says lord Chatham, the sword will find its way to the vitals of the constitu-

tion. I have no faith in parchment, sir; I have no faith in the *abracadabra* of the constitution; I have no faith in it. I *have* faith in the power of that commonwealth, of which I am an unworthy son; in the power of those Carolinas, and of that Georgia, in her ancient and utmost extent, to the Mississippi, which went with us through the valley of the shadow of death, in the war of our independence. I have said, that I shall not stop to discuss the constitutionality of this question, for that reason and for a better; that there never was a constitution under the sun, in which, by an unwise exercise of the powers of the government, the people may not be driven to the extremity of resistance by force. "For it is not, perhaps, so much by the assumption of unlawful powers, as by the unwise or unwarrantable use of those which are most legal, that governments oppose their true end and object: for there is such a thing as tyranny as well as usurpation." If, under a power to regulate trade, you prevent exportation; if, with the most approved spring lancets, you draw the last drop of blood from our veins; if, *secundum artem*, you draw the last shilling from our pockets, what are the checks of the constitution to us? A fig for the constitution! When the scorpion's sting is probing us to the quick, shall we stop to chop logic? Shall we get some learned and cunning clerk to say whether the power to do this is to be found in the constitution, and then, if he, from whatever motive, shall maintain the affirmative, like the animal whose fleece forms so material a portion of this bill, quietly lie down and be shorn?

Sir, events now passing elsewhere, which plant a thorn in my pillow and a dagger in my heart, admonish me of the difficulty of governing with sobriety any people who are over head and ears in debt. That state of things begets a temper which sets at nought every thing like reason and common sense. This country is unquestionably laboring under great distress; but we cannot legislate it out of that distress. We may, by your legislation, reduce all the country south and east of Mason and Dixon's line, the whites as well as the blacks, to the condition of Helots: you can do no more. We have had placed before us, in the course of this discussion, foreign examples and authorities; and among other things, we have been told, as an argument in favor of this measure, of the prosperity of Great Britain. Have gentlemen taken into consideration the peculiar advantages of Great Britain? Have they taken into consideration that, not excepting Mexico, and that fine country which lies between the Orinoco and Caribbean sea, England is decidedly superior, in point of physical advantages, to every country under the sun? This is unquestionably true. I will enumerate some of those advantages. First, there is her climate. In England, such is the temperature of the air, that a

man can there do more days' work in the year, and more hours' work in the day, than in any other climate in the world; of course I include Scotland and Ireland in this description. It is in such a climate only, that the human animal can bear without extirpation the corrupted air, the noisome exhalations, the incessant labor of these accursed manufactories. Yes, sir, accursed; for I say it is an accursed thing, which I will neither taste, nor touch, nor handle. If we were to act here on the English system, we should have the yellow fever at Philadelphia and New York, not in August merely, but from June to January, and from January to June. The climate of *this* country alone, were there no other natural obstacle to it, says aloud, You shall not manufacture! Even our tobacco factories, admitted to be the most wholesome of any sort of factories, are known to be, where extensive, the very nidus (if I may use the expression) of yellow fever and other fevers of similar type. In another of the advantages of Great Britain, so important to her prosperity, we are almost on a par with her, if we know how properly to use it. *Fortunatos nimium sua si bona norint*—for, as regards defence, we are, to all intents and purposes, almost as much an island as England herself. But *one* of her insular advantages we can never acquire. Every part of that country is accessible from the sea. There, as you recede from the sea, you do not get further from the sea. I know that a great deal will be said of our majestic rivers, about the father of floods, and his tributary streams; but, with the Ohio, frozen up all the winter and dry all the summer, with a long, tortuous, difficult, and dangerous navigation thence to the ocean, the gentlemen of the west may rest assured that they will never derive one particle of advantage from even a total prohibition of foreign manufactures. You may succeed in reducing *us* to your own level of misery; but if we were to *agree* to become your slaves, you never can derive one farthing of advantage from this bill. What parts of this country can derive any advantage from it? Those parts only, where there is a water power in immediate contact with navigation, such as the vicinities of Boston, Providence, Baltimore, and Richmond. Petersburg is the last of these as you travel south. You take a bag of cotton up the river to Pittsburg, or to Zanesville, to have it manufactured and sent down to New Orleans for a market, and before your bag of cotton has got to the place of manufacture, the manufacturer of Providence has received his returns for the goods made from his bag of cotton purchased at the same time that you purchased yours. No, sir, gentlemen may as well insist that because the Chesapeake bay, *mare nostrum*, our Mediterranean sea, gives us every advantage of navigation, we shall exclude from it every thing but steam-boats and those boats called κατ' ἐξοχήν, *per emphasin, par excellence*, Kentucky boats—a sort

of huge square, clumsy, wooden box. And why not insist upon it? Hav'nt you "the power to REGULATE COMMERCE"? Would not that too be a "REGULATION OF COMMERCE"? It would, indeed, and a pretty regulation it is; and so is this bill. And, sir, I marvel that the representation from the great commercial state of New York should be in favor of this bill. If operative—and if inoperative why talk of it?—if operative, it must, like the embargo of 1807—1809, transfer no small portion of the wealth of the London of America, as New York has been called, to Quebec and Montreal. She will receive the most of her imports from abroad, down the river. I do not know any bill that could be better calculated for Vermont than this bill; because, through Vermont, from Quebec, Montreal, and other positions on the St. Lawrence, we are, if it passes, unquestionably to receive our supplies of foreign goods. It will, no doubt, suit the Niagara frontier.

But, sir, I must not suffer myself to be led too far astray from the topic of the peculiar advantages of England as a manufacturing country. Her vast beds of coal are inexhaustible; there are daily discoveries of quantities of it, greater than ages past have yet consumed; to which beds of coal her manufacturing establishments have been transferred, as any man may see who will compare the present population of her towns with what it was formerly. It is to these beds of coal that Birmingham, Manchester, Wolverhampton, Sheffield, Leeds, and other manufacturing towns, owe their growth. If you could destroy her coal in one day, you would cut at once the sinews of her power. Then, there are her metals, and particularly tin, of which she has the exclusive monopoly. Tin, I know, is to be found in Japan, and perhaps elsewhere; but, in practice, England has now the monopoly of that article. I might go further, and I might say, that England possesses an advantage, *quoad hoc*, in her institutions; for *there* men are compelled to pay their debts. But, *here*, men are not only not compelled to pay their debts, but they are protected in the refusal to pay them, in the scandalous evasion of their legal obligations; and, after being convicted of embezzling the public money, and the money of others, of which they were appointed guardians and trustees, they have the impudence to obtrude their unblushing fronts into society, and elbow honest men out of their way. There, though all men are on a footing of equality on the high way, and in the courts of law, at will and at market, yet the castes in Hindoostan are not more distinctly separated, one from the other, than the different classes of society are in England. It is true that it is practicable for a wealthy merchant or a manufacturer, or his descendants, after having, through two or three generations, washed out, what is considered the stain of their original occupation, to emerge, by slow degrees, into the higher

ranks of society; but this rarely happens. Can you find men of vast fortune, in this country, content to move in the lower circles—content as the ox under the daily drudgery of the yoke? It is true that, in England, some of these wealthy people take it into their heads to buy seats in parliament. But, when they get there, unless they possess great talents, they are mere nonentities; their existence is only to be found in the red book which contains a list of the members of parliament. Now, sir, I wish to know if, in the western country, where any man may get beastly drunk for three pence sterling—in England, you cannot get a small wine-glass of spirits under twenty-five cents; one such drink of grog as I have seen swallowed in this country, would there cost a dollar—in the western country, where every man can get as much meat and bread as he can consume, and yet spend the best part of his days, and nights too, perhaps, on the tavern benches, or loitering at the cross roads asking the news, can you expect the people of such a country, with countless millions of wild land and wild animals besides, can be cooped up in manufacturing establishments, and made to work sixteen hours a day, under the superintendence of a driver, yes, a driver, compared with whom a southern overseer is a gentleman and man of refinement; for, if they do not work, these work people in the manufactories, they cannot eat; and, among all the punishments that can be devised (put death even among the number), I defy you to get as much work out of a man by any of them, as when he knows that he must work before he can eat.

But, sir, if we follow the example of England in one respect, as we are invited to do, we must also follow it in another. If we adopt her policy, we must adopt her institutions also. Her policy is the result of her institutions, and our institutions must be the result of our policy, assimilated to hers. We cannot adopt such an exterior system as that of England, without adopting also her interior policy. We have heard of her wealth, her greatness, her glory; but her eulogist is silent about the poverty, wretchedness, misery of the lowest orders. Show me the country, say gentlemen, which has risen to glory without this system of bounties and protection on manufactures. Sir, show *me* any country, beyond our own, which has risen to glory or to greatness, without an established church, or without a powerful aristocracy, if not an hereditary nobility. I know no country in Europe, except Turkey, without hereditary nobles. Must we, too, have these Corinthian ornaments of society, because those countries of greatness and glory have given it to them? But, after we shall have destroyed all our foreign trade; after we shall have, by the prevention of imports, cut off exports—thus keeping the promise of the constitution to the ear, and breaking it to the hope—paltering with the people in

a double sense—after we shall have done this, we are told "we shall *only* have to resort to an excise; we have only to *change* the *mode* of collection of taxes from the people: both modes of taxation are *voluntary*." Very voluntary! The exciseman comes into my house, searches my premises, respects not even the privacy of female apartments, measures, gauges, and weighs every thing, leaves a tax upon every thing, and then tells me the tax is a voluntary one on my part, and that I am, or ought to be, content. Yes, voluntary, as Portia said to Shylock, when she played the judge so nicely—Art thou content, Jew? Art thou content?

These taxes, however, it seems, are voluntary, "as being also gotten upon *assumpsit*." By a recent speech on this subject, the greater part of which I was so fortunate as to hear, I learn that there have been only two hundred capital prosecutions in England, within a given time, for violations of the revenue laws. Are we ready, if one of us, too poor to own a saddle-horse, should borrow a saddle, and clap it on his plough-horse, to ride to church or court, or mill or market, to be taxed for a surplus saddle-horse, and surcharged for having failed to list him as such? Are gentlemen aware of the inquisitorial, inquiring, arbitrary, and almost papal power of the commissioners of excise? I shall not stop to go into a detail of them; but I never did expect to hear it said, on this floor, and by a gentleman from Kentucky too, that the excise system was a mere scare-crow, a bug-bear: that the sound of the words constituted all the difference between a system of excise and a system of customs: that both meant the same thing:—"Write them together; yours is as fair a name: sound them; it doth become the mouth as well:" here, sir, I must beg leave to differ; I do not think it does: "Weigh them; it is as *heavy*:" that I grant—"conjure with them;"—excise "will start a *spirit* as soon as" *customs*. This I verily believe, sir, and I wish, with all my heart, if this bill is to pass, if new and unnecessary burdens are to be wantonly imposed upon the people, that we were to return home with the blessed news of a tax or excise, not less by way of "minimum" than fifty cents per gallon upon whisky. And here, if I did not consider an exciseman to bear, according to the language of the old law books, *tetrum luporum*, and that it was almost as meritorious to shoot such a hell-hound of tyranny, as to shoot a wolf or a mad dog: and if I did not know that any thing like an excise in this country is in effect utterly impracticable.—I myself, feeling, seeing, blushing for my country, would gladly vote to lay an excise on this abominable liquor, the lavish consumption of which renders this the most drunken nation under the sun: and yet we have refused to take the duties from wines, from cheap French wines particularly, that might lure the dog from his vomit, and lay the foundation of a reformation of the public manners. Sir,

an excise system can never be maintained in this country. I had as lief be a tithe proctor in Ireland, and met on a dark night in a narrow road by a dozen white-boys, or peep-of-day boys, or hearts of oak, or hearts of steel, as an excise man in the Alleghany mountains, met, in a lonely road, or by-place, by a backwoodsman, with a rifle in his hand. With regard to Ireland, the British chancellor of the exchequer has been obliged to reduce the excise in Ireland on distilled spirits, to comparatively nothing to what it was formerly, in consequence of the impossibility of collecting it in that country. Ireland is, not to speak with statistical accuracy, about the size of Pennsylvania, containing something like twenty-five thousand square miles of territory, with a population of six millions of inhabitants, nearly as great a number as the whole of the white population of the United States; with a standing army of 20,000 men; with another standing army, composed of all those classes in civil life, who, through the instrumentality of that army, keep the wretched people in subjection: under all these circumstances, even in Ireland, the excise cannot be collected. I venture to say that no army that the earth has ever seen; not such a one as that of Bonaparte, which marched to the invasion of Russia, would be capable of collecting an excise in this country; not such a one (if you will allow me to give some delightful poetry in exchange for very wretched prose) as Milton has described—

> "Such forces met not, nor so wide a camp,
> When Agrican, with all his northern powers
> Besieged Albracca, as romances tell,
> The city of Calliphrone, from whence to win
> The fairest of her sex, Angelica,
> His daughter, sought by many prowest knights,
> Both Paynim and the peers of Charlemagne;"

not such a force, nor even the troops with which he compares them, which were no less than "the legend fiends of hell" could collect an excise here. If any officer of our government were to take the field *a still-hunting*, as they call it in Ireland, among our southern or western forests and mountains, I should like to see the throwing off of the hounds. I have still so much of the sportsman about me, that I should like to see the breaking cover, and, above all, I should like to be in at the death.

And what are we now about to do? For what was the constitution formed? To drive the people of any part of this Union from the plough to the distaff? Sir, the constitution of the United States never would have been formed, and if formed, would have been scouted, *una voce*, by the people, if viewed as a means for effecting purposes like this. The constitution was formed for external purposes, to raise armies and navies, and to lay uniform duties on

imports, to raise a revenue to defray the expenditure for such objects. What are you going to do now? To turn the constitution wrong side out; to abandon foreign commerce and exterior relations—I am sorry to use this Frenchified word—the foreign affairs, which it was established to regulate, and convert it into a municipal agent, to carry a system of espionage and excise into every log-house in the United States. We went to war with Great Britain for free trade and sailors' rights; we made a treaty of peace, in which I never could, with the aid of my glasses, see a word about either the one or the other of these objects of contention: we are now determined never to be engaged in another for such purposes; for we are, ourselves, putting an end to them. And, by the way of comfort in this state of things, we have been told, by the doctor as well as the apothecary, that much cannot be immediately expected from this new scheme; that years will pass away before its beneficial effects will be fully realized. And to whom is this told? To the consumptive patient it is said, Here is the remedy; persevere in it *for a few years*, and it will infallibly cure your disorder; and this infallible remedy is prescribed for pulmonary consumption, which is an opprobrium of physicians, and has reached a stage, that, in a few months, not to say days, must inevitably terminate the existence of the patient. This is to be done, too, on the plea that the people who call for this measure are already ruined. I will do any thing, sir, in reason, to relieve these persons; but I can never agree, because they are ruined, and we are half ruined only, that we shall be entirely ruined, for the contingent possibility of their relief. We have no belief in this new theory; new, for it came in with the French revolution, and that is of modern date—of the transfusion of blood from a healthy animal to a sick one; and if there is to be such a transfusion for the benefit of these ruined persons now, we refer the gentlemen to bulls and goats for supplies of blood, for we should be the veriest asses to permit them to draw our own.

We are told, however, that we have nothing to do but to postpone the payment of the public debt for a few years, and wait, for an accumulation of wealth, for a new run of luck,

> "Rusticus expectat dum defluat amnis, at ille
> Labitur, et labetur in omne volubilis ævum."

This postponement of the public debt is no novelty. All debts are, now-a-days, as old Lilly hath it, in the future in *rus*, "about to be" paid. We have gone on postponing paying the national debt, and our own debts, until individual credit is at an end; until property, low as it is reduced in price by our fantastic legislation, can no longer be bought but for ready money. Here is one, and

there the other. I am describing a state of society which I know to exist in a part of the country, and which I hear, with concern, does exist in a greater degree, in a much larger portion of the country than I pretend to be personally acquainted with.

In all beneficial changes in the natural world—and the sentiment is illustrated by one of the most beautiful effusions of imagination and genius that I ever read—in all those changes, which are the work of an all-wise, all-seeing, and superintending Providence, as in the insensible gradation by which the infant bud expands into manhood, and from manhood to senility; or, if you will, to caducity itself,—you find nature never working but by gradual and imperceptible changes; you cannot see the object move, but take your eye from it for a while, and, like the index of that clock, you can see that it has moved. The old proverb says, God works good, and always by degrees. The devil, on the other hand, is bent on mischief, and always in a hurry. He cannot stay: his object is mischief, which can best be effected suddenly, and he must be gone to work elsewhere. But we have the comfort, under the pressure of this measure, that at least no force is exercised upon us; we are not obliged to buy goods of foreign manufacture. It is true, sir, that gentlemen have not said you shall not send your tobacco or cotton abroad; but they have said the same thing in other words; by preventing the importation of the returns which we used to receive, and without which the sale or exchange of our produce is impracticable, they say to us, You shall sell only to us, and we will give you what we please, you shall buy only of us, but at what price we please to ask. But no force is used! You are at full liberty not to buy or to sell. Sir, when an English judge once told a certain curate of Brentford, that the court of chancery was open equally to the rich and the poor, Horne Tooke replied, "So, my lord, is the London tavern." You show a blanket or a warm rug to a wretch that is shivering with cold, and tell him, You shall get one no where else, but you are at liberty not to buy mine.

No Jew, who ever tampered with the necessities of a profligate young heir, lending him money at a usury of cent. per cent., ever acted more paternally than the advocates of this bill, to those upon whom it is to operate. I advise you, young man, for your good, says the usurer. I do these things very reluctantly, says Moses—these courses will lead you to ruin. But, no force,—no, sir, no force, short of Russian despotism, shall induce me to purchase, or, knowing it, to use any article from the region of country which attempts to cram this bill down our throats. On this, we of the south are as resolved as were our fathers about the tea, which they refused to drink; for this is the same old question of the stamp act in a new shape, viz. whether they, who have no

common feeling with us, shall impose on us, not merely a burdensome but a ruinous tax, and that by way of experiment and sport. And I say again, if we are to submit to such usurpations, give me George Grenville, give me lord North for a master. It is in this point of view that I most deprecate the bill. If, from the language I have used, any gentleman shall believe I am not as much attached to this Union as any one on this floor, he will labor under a great mistake. But there is no magic in this word *union*. I value it as the means of preserving the liberty and happiness of the people. Marriage itself is a good thing, but the marriages of Mezentius were not so esteemed. The marriage of Sinbad, the Sailor, with the corpse of his deceased wife, was a union; and just such a union will this be, if, by a bare majority in both houses, this bill shall become a law. And, I ask, sir, whether it will redound to the honor of this house, if this bill should pass, that the people should owe their escape to the act of any others rather than to us? Shall we, when even the British parliament are taking off taxes by wholesale—when all the assessed taxes are diminished fifty per cent.—when the tax on salt is reduced seven eighths, with a pledge that the remainder shall come off, and the whole would have been repealed, but that it was kept as a salvo for the wounded pride of Mr. Chancellor of the Exchequer, who, when asked—Why keep on this odious tax, which brings but a paltry hundred and fifty thousand per annum? answered by subterfuge and evasion, as I have heard done in this house, and drew back upon his resources, his majority—how will it answer for the people to have to look up for their escape from oppression, not to their immediate representatives, but to the representatives of the states, or, possibly, to the executive? And, permit me here to say, and I say it freely, because it is true, that I join as heartily as any man, in reprehending "the cold, ambiguous support of the executive government to this bill." I do not use my own words; I deprecate as much as any member of this house can do, that the executive of this country should lend to this bill, or to any other bill, a cold and ambiguous support, or support of any sort, until it comes before him in the shape of a law, unless it be a measure which he, in his constitutional capacity, may have invited congress to pass. I may be permitted to say, and I will say, that, in case this bill should be unhappily presented to him for his signature,—and as an allusion has been made to him in debate, I presume I may repeat it,—I hope he will recollect how much the country that gave him birth has done for him, and the little, not to say, worse than nothing, that, during his administration, he has done for her. I hope, sir, he will scout the bill, as contrary to the genius of our government, to the whole spirit and letter of our confederation—I say of our confederation—Blessed be God, it is a confederation, and

that it contains within itself the redeeming power which has more than once been exercised—and that it contains within itself the seeds of preservation, if not of this Union, at least of the individual commonwealths of which it is composed.

But, sir, not satisfied with an appeal to the example of Great Britain, whom we have been content hitherto very sedulously to censure and to imitate,—as I once heard a certain person say that it was absolutely necessary for persons of a peculiar character to be extremely vehement of censure of the very vice of which they are themselves guilty—the example of Russia has been introduced, the very last, I should suppose, that would be brought into this house on this or any other question. A gentleman from South Carolina (Mr. Poinsett), whose intelligence and information I very much respect, but the feebleness of whose voice does not permit him to be heard as distinctly as could be wished, remarked the other day, and having it on my notes, I will, with his leave, repeat it—"Russia is cursed with a paper money, which, in point of depreciation and its consequent embarrassment to her, can boast of no advantage, I believe, even over that of Kentucky—so cursed, that it is impossible, until her circulation is restored to a healthful state, she can ever take her station as a commercial or manufacturing nation, to any extent." Nay, more, Russia, with the exception of few of her provinces, consists, like the interior of America, of a vast inland continent, desolated and deformed by prairies, or steppes, as they are there called, inhabited by a sparse population; and, as an appeal has been made to experience, I ask any gentleman to show me an instance of any country under the sun that has, under these circumstances, taken a stand as a manufacturing or great commercial nation. These great rivers and inland seas cut a mighty figure on the map; but, when you come to consider of capacities for foreign commerce, how unlike the insular situation of Great Britain, or the peninsular situation of almost the whole continent of Europe, surrounded or penetrated as it is by inland seas and gulfs! May I be pardoned for adverting to the fact—I know that comparisons are extremely odious—that, when we look to Salem and Boston, to parts of the country where skill, and capital, and industry, notoriously exist, we find opposition to this bill; and that, when we look to countries which could sooner build one hundred pyramids, such as that of Cheops, than manufacture one cambric needle, or a paper of Whitechapel pins, or a watch spring, we hear a clamor about this system for the protection of manufactures. The merchants and manufacturers of Massachusetts, New Hampshire, the province of Maine, and Sagadahock repel this bill, whilst men in hunting shirts, with deer-skin leggins and moccasons on their feet, want protection for manufactures—men with rifles on their shoulders, and long knives in their belts,

seeking in the forests to lay in their next winter's supply of bear-meat. But it is not there alone the cry is heard. It is at Baltimore—decayed, deserted Baltimore, whose exports have more than one half decreased, while those of Boston have four times increased—it is decayed and deserted Baltimore that comes here and asks us for the protection of those interests which have grown up during the late war—privateering among the number, I presume. Philadelphia, too, in a state of atrophy, asks for the measure—Philadelphia, who never can, pass what bill you please, have a foreign trade to any great amount, or become a great manufacturing town, for which she wants all the elements of climate, coal, and capital—this city, now overbuilt, swollen to the utmost extent of the integument, and utterly destitute of force or weight in the Union, wants this bill for the protection of the domestic industry of her free blacks, I presume. New York, too, is now willing to build up Montreal and Quebec at her expense—to convert the Hudson into a theatre for rival disputants about steam-boats in the courts below stairs, and for them, and such as them, with a coasting license to ply upon. The true remedy, and the only one, for the iron manufacturer of Pennsylvania, who has nothing but iron to sell,—and that, they tell us, is worth nothing,—would be to lay on the table of this house a declaration of war in blank, and then go into a committee of the whole, to see what nation in the world it would be most convenient to go to war with—for, fill the blank with the name of what power you please, it must be a sovereign state, and though it have not a seaman or a vessel in the world, its commissions are as good and valid in an admiralty court, as those of the lord high admiral of Great Britain. In this way you will put our furnaces in blast, and your paper-mills into full operation; and many, very many, who, during the last war, transported flour on horseback for the supply of your army, at the cost of a hundred dollars per barrel, and who have since transported provisions in steam-boats up and down the Missouri river—very many such individuals would thus be taken out of the very jaws of bankruptcy and lifted up to opulence, at the expense of that people, at whose expense, also, you are now about to enable these iron manufacturers to fill their pockets. New England does not want this bill. Connecticut, indeed, molasses having been thrown overboard to lighten the ship, votes for this bill. A word in the ear of the land of steady habits—I voted against that tax, on the principle, which has always directed my public life, not to compromise my opinions—not to do evil that good may come of it—let me tell the land of steady habits, that, after this bill shall be fairly off the shore; after we shall have cleared decks and made ready for action again: after she shall have imposed on me the onerous burden of this bill, she shall have the benefit of my vote

to put on again this duty on molasses—not at this day—this is not the last tariff measure; for in less than five years, I would, if I were a betting man, wager any odds that we have another tariff proposition, worse by far than that, amendments to which gentlemen had strangled yesterday by the bowstring of the previous question. Fair dealing leads to safe counsels and safe issues. There is a certain left-handed wisdom, that often overreaches its own objects, which grasps at the shadow, and lets go the substance. We shall not only have this duty on molasses, I can tell the gentleman from Connecticut, but we shall have, moreover, an additional bounty on intoxication by whisky, in the shape of an additional duty on foreign distilled spirits.

The ancient commonwealth of Virginia, one of whose unworthy sons, and more unworthy representatives, I am, must now begin to open her eyes to the fatal policy which she has pursued for the last forty years. I have not a doubt, that they who were the agents for transferring her vast, and boundless, and fertile country to the United States, with an express stipulation, in effect, that not an acre of it should ever enure to the benefit of any man from Virginia, were as respectable, and kind-hearted, and hospitable, and polished, and guileless Virginia gentlemen, as ever were cheated out of their estates by their overseers; men who, as long as they could command the means, by sale of their last acre, or last negro, would have a good dinner, and give a hearty welcome to whomsoever chose to drop in to eat, friend or stranger, bidden or unbidden. What will be the effect of this bill on the Southern States? The effect of this policy is, what I shudder to look at; the more because the next census is held up *in terrorem* over us. We are told, you had better consent to this—we are not threatened exactly with general Gage and the Boston port bill; but we are told by gentlemen, we shall, after the next census, so saddle, and bridle, and *martingale* you, that you will be easily regulated by any bit, or whip, however severe, or spurs, however rank, of domestic manufacture that we choose to use. But this argument, sir, has no weight in it with me. I do not choose to be robbed now, because, after I am once robbed, it will be easier to rob me again. *Obsta principiis* is my maxim—because every act of extension of the system operates in a twofold way, decreasing the strength and means of the robbed, and increasing those of the robber. This is as true as any proposition in mathematics. Gentlemen need not tell us, we had better give in at once. No, sir, we shall not give in; no, we shall hold out—we shall not give in. We do not mean to be threatened out of our rights by the menace of another census. We are aware of our folly, and it is our business to provide against the consequences of it; but not in this way. When I recollect that the tariff of 1816 was followed by that of

1819–20, and that by this measure of 1823–4, I cannot believe that we are, at any time hereafter, long to be exempt from the demands of these sturdy beggars who will take no denial. Every concession does but render every fresh demand and new concession more easy. It is like those dastard nations who vainly think to buy peace. When I look back to what the country of which I am a representative was, and when I see what she is—when I recollect the expression of lord Cornwallis, applied to Virginia, "that great and unterrified colony," which he was about to enter, not without some misgivings of his mind as to the result of the invasion—when I compare what she was when this house of representatives first assembled in the city of New York, and what she now is, I know, by the disastrous contrast, that her councils have not been governed by statesmen. They might be admirable professors of a university, powerful dialecticians *ex cathedra*, but no sound counsels of wise statesmen could ever lead to such practical ill results as are exhibited by a comparison of the past and present condition of the ancient colony and dominion of Virginia.

In the course of this discussion, I have heard, I will not say with surprise, because *nil admirari* is my motto—no doctrine that can be broached on this floor, can ever, hereafter, excite surprise in my mind—I have heard the names of Say, Ganilh, Adam Smith, and Ricardo, pronounced not only in terms, but in a tone of sneering contempt, visionary theorists, destitute of practical wisdom, and the whole clan of Scotch and Quarterly reviewers lugged in to boot. This, sir, is a sweeping clause of proscription. With the names of Say, Smith, and Ganilh, I profess to be acquainted, for I, too, am versed in *title-pages;* but I did not expect to hear, in this house, a name, with which I am a little further acquainted, treated with so little ceremony; and by whom? I leave Adam Smith to the simplicity, and majesty, and strength of his own native genius, which has canonized his name—a name which will be pronounced with veneration, when not one in this house will be remembered. But one word as to Ricardo, the last mentioned of these writers—a new authority, though the grave has already closed upon him, and set its seal upon his reputation. I shall speak of him in the language of a man of as great a genius as this, or perhaps any, age has ever produced; a man remarkable for the depth of his reflections and the acumen of his penetration. "I had been led," says this man, "to look into loads of books—my understanding had for too many years been intimate with severe thinkers, with logic, and the great masters of knowledge, not to be aware of the utter feebleness of the herd of modern economists. I sometimes read chapters from more recent works, or part of parliamentary debates. I saw that these" [ominous words!]

were generally the very dregs and rinsings of the human intellect." [I am very glad, sir, he did not read *our* debates. What would he have said of ours?] "At length a friend sent me Mr. Ricardo's book, and, recurring to my own prophetic anticipation of the advent of some legislator on this science, I said, Thou art the man. Wonder and curiosity had long been dead in me; yet I wondered once more. Had this profound work been really written in England during the 19th century? Could it be that an Englishman, and he not in academic bowers, but oppressed by mercantile and senatorial cares, had accomplished what all the universities and a century of thought had failed to advance by one hair's breadth? All other writers had been crushed and overlaid by the enormous weight of facts and documents: Mr. Ricardo had deduced, *a priori*, from the understanding itself, laws which first gave a ray of light into the unwieldy chaos of materials, and had constructed what had been but a collection of tentitive discussions, into a science of regular proportions, now first standing on an eternal basis."

I pronounce no opinion of my own on Ricardo; I recur rather to the opinion of a man inferior, in point of original and native genius, and that highly cultivated, too, to none of the moderns, and few of the ancients. Upon this subject, what shall we say to the following fact? Butler, who is known to gentlemen of the profession of the law, as the annotator, with Hargrave, on lord Coke, speaking with Fox as to political economy—that most extraordinary man, unrivalled for his powers of debate, excelled by no man that ever lived, or probably ever will live, as a public debater, and of the deepest political erudition, fairly confessed that he had never read Adam Smith. Butler said to Mr. Fox, "that he had never read Adam Smith's work on the Wealth of Nations." "To tell you the truth," replied Mr. Fox, "nor I neither. There is something in all these subjects that passes my comprehension—something so wide that I could never embrace them myself, or find any one who did." And yet we see how we, with our little dividers, undertake to lay off the scale, and with our pack-thread to take the soundings, and speak with a confidence peculiar to quacks (in which the regular-bred professor never indulges) on this abstruse and perplexing subject. Confidence is one thing, knowledge another; of the want of which, overweening confidence is notoriously the indication. What of that? Let Ganilh, Say, Ricardo, Smith, all Greek and Roman fame be against us; we appeal to Dionysius in support of our doctrines; and to him, not on the throne of Syracuse, but at Corinth—not in absolute possession of the most wonderful and enigmatical city, as difficult to comprehend as the abtrusest problem of political economy, which furnished not only the means but the men for supporting the greatest wars—a

kingdom within itself, under whose ascendant the genius of Athens, in her most high and palmy state, quailed, and stood rebuked. No; we follow the pedagogue to the schools—dictating in the classic shades of Longwood—*(lucus a non lucendo)*—to his disciples.

We have been told that the economists are right in theory and wrong in practice; which is as much as to say, that two bodies occupy at the same time the same space; for it is equally impracticable to be right in theory and wrong in practice. It is easy to be wrong in practice; but if our practice corresponds with our theory, it is a solecism to say that we can be right in the one and wrong in the other. As for Alexander and Cæsar, I have as little respect for their memory as is consistent with that involuntary homage which all must pay to men of their prowess and abilities; and if Alexander had suffered himself to be led by the nose out of Babylon and banished to Sinope, or if Cæsar had suffered himself to be deprived of his imperial sway, not by the dagger of the assassin, but by his own slavish fears, I should have as little respect for their memory as for that of him whose example has on this occasion been held up to us for admiration. Speaking of that man who has kept me awake night after night, and has been to me an incubus by day, for fear of the vastness of his designs, I cannot conceive of a spectacle so pitiful, so despicable, as that man, under those circumstances; and if the work dictated by him at St. Helena be read with the slightest attention, no forsworn witness at the Old Bailey was ever detected in so many contradictions as he has been guilty of. No, sir, the Jupiter from whose reluctant hand the thunderbolt is wrung, is not the one at whose shrine I worship —not that I think that the true Amphytrion is always him with whom we dine. Napoleon is not the political economist who is to take place of Smith and Ricardo. Will any man make me believe that he understood the theory or the practice of political economy better than these men, or than Charles Fox? Impossible. When I recollect what that man might have done for liberty, and what he did; when I recollect that to him we owe this Holy Alliance—this fearful power of Russia—of Russia, where I should advise persons to go who desire to be instructed in petty treason by the murder of a husband, or in parricide by the murder of a father, but from whom I should never think of taking a lesson in political economy—to whom I say rather, pay your debts, not in depreciated paper; do not commit daily acts of bankruptcy; restore your currency; practise on the principles of liberality and justice, and then I will listen to you. No, sir, Russia may, if she pleases, not only lay heavy duties on imports; she may prohibit them if she pleases; *she* has nothing to export but what some inland countries have, political power—physical, to be sure, as well

as intellectual power—but she does not even dare to attack the Turk: she cannot stir: she is something like some of our interior people of the south, who have plenty of land, plenty of serfs, smoke-houses filled with meat, and very fine horses to ride, but who, when they go abroad, have not one shilling to bless themselves with: and so long as she is at peace, and does not trouble the rest of the world, so long she may be suffered to remain: but, if she should continue to act hereafter as she has done heretofore, it will be the interest of the civilized world to procure her dismemberment, *per fas aut nefas.*

But it is said, a measure of this sort is necessary to create employment for the people. Why, sir, where are the handles of the plough? Are they unfit for *young gentlemen* to touch? Or will they rather choose to enter your military academies, where the sons of the rich are educated at the expense of the poor, and where so many political janissaries are every year turned out, always ready for war, and to support the powers that be—equal to the strelitzes of Moscow or St. Petersburg. I do not speak now of individuals, of course, but of the tendency of the system—the hounds follow the huntsman because he feeds them, and bears the whip. I speak of the system. I concur most heartily, sir, in the censure which has been passed upon the greediness of office, which stands a stigma on the present generation. Men from whom we might expect, and from whom I did expect, better things, crowd the antechamber of the palace, for every vacant office; nay, even before men are dead, their shoes are wanted for some barefooted office-seeker. How mistaken was the old Roman, the old consul, who, whilst he held the plough by one hand, and death held the other, exclaimed, "*Diis immortalibus sero!*"

Our fathers, how did they acquire their property? By straightforward industry, rectitude, and frugality. How did they become dispossessed of their property? By indulging in speculative hopes and designs, seeking the shadow whilst they lost the substance; and now, instead of being, as they were, men of respectability, men of substance, men capable and willing to live independently and honestly, and hospitably too—for who so parsimonious as the prodigal who has nothing to give?—what have we become? A nation of sharks, preying on one another through the instrumentality of this paper system, which, if Lycurgus had known of it, he would unquestionably have adopted, in preference to his iron money, if his object had been to make the Spartans the most accomplished knaves as well as to keep them poor.

But we are told this is a curious constitution of ours: it is made for foreigners, and not for ourselves—for the protection of foreign, and not of American industry. Sir, this *is* a curious constitution of ours, and if I were disposed to deny it, I could not succeed.

It is an anomaly in itself. It is that supposed impossibility of all writers, from Aristotle to the present day, an *imperium in imperio*. Nothing like it ever did exist, or possibly ever will, under similar circumstances. It is a constitution consisting of confederated bodies, for certain exterior purposes, and also for some interior purposes, but leaving to the state authorities, among a great many powers, the very one which we now propose to exercise; for, if we are now passing a *revenue bill*—a bill the object of which were to raise revenue—however much I should deny the policy, and however I could demonstrate the futility of the plan, I still should deem it to be a constitutional bill—a bill passed to carry, *bona fide*, into effect, a provision of the constitution, but a bill passed with short-sighted views. But this is no such bill. It is a bill, under pretence of regulating commerce, to take money from the pockets of a very large, and, I thank God, contiguous territory, and to put it into other pockets. One word, sir, on that point;—I can assure the gentlemen whose appetites are so keenly whetted for our money—I trust, at least, if this bill passes, there will be a meeting of the members opposed to it, and a general and consentaneous resistance to its operation throughout the whole southern country—and we shall make it by lawful means; *quant à nous*, the law will be a dead letter. It shall be to me, at least, as innocuous as the pill of the empiric which I am determined not to swallow. The manufacturer of the east may carry his woollens or his cottons, or his coffins, to what market he pleases—I do not buy of him. Self-defence is the first law of nature. You drive us into it. You create heats and animosities among this great family, who ought to live like brothers; and, after you have got this temper of mind roused among the southern people, do you expect to come among us to trade, and expect us to buy your wares? Sir, not only shall we not buy them, but we shall take such measures (I will not enter into the detail of them now) as shall render it impossible for you to sell them. Whatever may be said here of the "misguided counsels" as they have been termed, "of the theorists of Virginia," they have, so far as regards this question, the confidence of united Virginia. We are asked—Does the south lose any thing by this bill—why do you cry out? I put it, sir, to any man from any part of the country, from the gulf of Mexico, from the Balize, to the eastern shore of Maryland—which, I thank Heaven, is not yet under the government of Baltimore, and will not be, unless certain theories should come into play in that state, which we have lately heard of, and a majority of men, told by the head, should govern—whether the whole country between the points I have named, is not unanimous in opposition to this bill. Would it not be unexampled, that we should thus complain, protest, resist, and that all the while nothing should be

the matter? Are our understandings (however low mine may be rated, much sounder than mine are engaged in this resistance), to be rated so low, as that we are to be made to believe that we are children affrighted by a bugbear? We are asked, however, why do you cry out? it is all for your good. Sir, this reminds me of the mistresses of George II., who, when they were insulted by the populace on arriving in London (as all such creatures deserve to be, by every mob), put their heads out of the window, and said to them in their broken English, "*Goot people, we be come for your goots;*" to which one of the mob rejoined—"Yes, and for our chattels too, I fancy." Just so it is with the oppressive exactions proposed and advocated by the supporters of this bill, on the plea of the good of those who are its victims.

There is not a member in this house, sir, more deeply penetrated than the one who is endeavoring to address you, with the inadequate manner in which he has discharged the task imposed upon him; in this instance, he will say, on his part, most reluctantly. But, as I have been all my life a smatterer in history, I cannot fail to be struck with the fitness of the comparison instituted by a historian of this country with the Roman republic, just as it was in a state of preparation for a master.

"Sed, postquam luxu, atque desidia civitas corrupta est; rursus respublica, magnitudine sua, imperatorum atque magistratuum vitia sustentabat; ac veluti effœta parentum, multis tempestatibus, haud sane quisquam Romæ virtute magnus fuit."

Of this quotation, I will, as they sometimes say in the parliament, for the benefit of the country-gentlemen, attempt a translation. "But, after the state had become corrupted by luxury and sloth"—in the Arabian Nights' Entertainments, we are told of one who laid by his sequins in good money, and when he afterwards came to use them, he found them to be bits of paper, not worth more than old continental (or Kentucky) money—"by luxury and sloth, again the republic,"—and here I press the comparison—"by dint of its own magnitude, its own greatness, its own vastness, bore up under the faults, the vices of its generals, magistrates, and that, too, as if effete (past bearing) since for a long while"—I hope the comparison will not hold here—"for a long time scarcely any man had become great at Rome by his merit." So, sir, it is with this republic. It does sustain, by its greatness and growing magnitude, the follies and vices of its magistracy. Had this government been stationary like any of the old governments of Europe, of the second class, Prussia for instance, or Holland, by the political evolutions of the last thirty years, I might say the last twelve years, it would have sunk into insignificance and debility; and it is only upon this resource, the increasing greatness of this republic, that the blunderers who plunge blindfold into schemes like this, can rely for

any possibility of salvation from the effect of their own rash, undigested measures. It is true, that the race is not to the swift, nor the battle to the strong; and elsewhere than in the republic of Rome, and of other times than the days of Catiline, it may be said, "Haud sane quisque virtute magnus est."

"'Tis not in mortals to command success!—
But do *you more*, Sempronius!—*don't* deserve it,
And take my word you won't have any less;
Be wary, watch the time, and always serve it:
Give gentle way when there's too great a press;
And for your conscience, only learn to nerve it,—
For, like a racer, or a boxer, training,
'Twill make, if proved, vast efforts without paining."

I had more to say, Mr. Speaker, could I have said it, on this subject. But I cannot sit down without asking those, who were once my brethren of the church, the elders of the young family of this good old republic of the thirteen states, if they can consent to rivet upon us this system, from which no benefit can possibly result to themselves. I put it to them as descendants of the renowned colony of Virginia; as children sprung from her loins; if for the sake of all the benefits, with which this bill is pretended to be freighted to them, granting such to be the fact for argument's sake, they could consent to do such an act of violence to the unanimous opinion, feelings, prejudices, if you will, of the whole Southern States, as to pass it? I go farther. I ask of them what is there in the condition of the nation, at this time, that calls for the immediate adoption of this measure? Are the Gauls at the gate of the capitol? If they are, the cacklings of the Capitoline geese will hardly save it. What is there to induce us to plunge into the vortex of those evils so severely felt in Europe from this very manufacturing and paper policy? For it is evident that, if we go into this system of policy, we must adopt the European institutions also. We have very good materials to work with; we have only to make our elective king president for life, in the first place, and then to make the succession hereditary in the family of the first that shall happen to have a promising son. For a king we can be at no loss—*ex quovis ligno*—any block will do for him. The senate may, perhaps, be transmuted into a house of peers, although we should meet with more difficulty than in the other case; for Bonaparte himself was not more hardly put to it, to recruit the ranks of his mushroom nobility, than we should be to furnish a house of peers. As for us, we are the faithful commons, ready made to hand; but with all our loyalty, I congratulate the house—I congratulate the nation—that, although this body is daily degraded by the sight of members of congress manufactured into placemen, we have not yet reached such a point of degradation as to suffer executive minions to be manufactured into members of

congress. We have shut *that* door; I wish we could shut the other also. I wish we could have a perpetual call of the house in this view, and suffer no one to get out from its closed doors. The time is peculiarly inauspicious for the change in our policy which is proposed by this bill. We are on the eve of an election that promises to be the most distracted that this nation has ever yet undergone. It may turn out to be a Polish election. At such a time, ought any measure to be brought forward which is supposed to be capable of being demonstrated to be extremely injurious to one great portion of this country, and beneficial in proportion to another? Sufficient for the day is the evil thereof. There are firebrands enough in the land, without this apple of discord being cast into this assembly. Suppose this measure is not what it is represented to be; that the fears of the south are altogether illusory and visionary; that it will produce all the good predicted of it—an honorable gentleman from Kentucky said yesterday—and I was sorry to hear it, for I have great respect for that gentleman, and for other gentlemen from that state—that the question was not whether a bare majority should pass the bill, but whether the majority or the minority should rule. The gentleman is wrong, and, if he will consider the matter rightly, he will see it. Is there no difference between the patient and the actor? *We* are passive: we do not call them to act or to suffer, but we call upon them not so to act as that we must necessarily suffer; and I venture to say, that in any government, properly constituted, this very consideration would operate conclusively, that if the burden is to be laid on 102, it ought not to be laid by 105. We are the eel that is being flayed, while the cook-maid pats us on the head, and cries, with the clown in King Lear, "Down, wantons, down." There is but one portion of the country which can profit by this bill, and from that portion of the country comes this bare majority in favor of it. I bless God that Massachusetts and old Virginia are once again rallying under the same banner, against oppressive and unconstitutional taxation; for, if all the blood be drawn from out the body, I care not whether it be by the British parliament or the American congress; by an emperor or a king abroad, or by a president at home.

Under these views, and with feelings of mortification and shame at the very weak opposition I have been able to make to this bill, I entreat gentlemen to consent that it may lie over, at least, until the next session of congress. We have other business to attend to, and our families and affairs need our attention at home; and indeed I, sir, would not give one farthing for any man who prefers being here to being at home; who is a good public man and a bad private one. With these views and feelings, I move you, sir, that the bill be indefinitely postponed.

SPEECH OF DANIEL WEBSTER

ON

THE PANAMA MISSION,

DELIVERED IN THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES, APRIL 14, 1826.

The following resolution being under consideration, in committee of the whole house upon the state of the Union, viz.,

"*Resolved*, That, in the opinion of the house, it is expedient to appropriate the funds necessary to enable the president of the United States to send ministers to the congress of Panama;"

Mr. M'Lane, of Delaware, submitted the following amendment thereto:

"It being understood as the opinion of this house, that, as it has always been the settled policy of this government, in extending our commercial relations with foreign nations, to have with them as little political connection as possible, to preserve peace, commerce, and friendship with all nations, and to form entangling alliances with none; the ministers who may be sent shall attend at the said congress in a diplomatic character merely, and ought not to be authorized to discuss, consider, or consult, upon any proposition of alliance, offensive or defensive, between this country and any of the Spanish American governments, or any stipulation, compact, or declaration, binding the United States in any way, or to any extent, to resist interference from abroad, with the domestic concerns of the aforesaid governments; or any measure which shall commit the present or future neutral rights or duties of these United States, either as may regard European nations, or between the several states of Mexico and South America; leaving the United States free to adopt, in any event which may happen, affecting the relations of the South American governments, with each other, or with foreign nations, such measures as the friendly disposition cherished by the American people towards the people of those states, and the honor and interest of this nation may require."

To which Mr. Rives proposed to add, after the words, "aforesaid governments," in the 12th line, the following:

'Or any compact or engagement by which the United States shall be pledged to the Spanish American states, to maintain, by force, the principle that no part of the American continent is henceforward subject to colonization by any European power."

The preceding motions to amend being under consideration, Mr. Webster delivered the following speech:—

Mr. Chairman,

I am not ambitious of amplifying this discussion. On the contrary, it is my anxious wish to confine the debate, so far as I partake in it, to the real and material questions before us.

Our judgment of things is liable, doubtless, to be affected by our opinions of men. It would be affectation in me, or in any one, to claim an exemption from this possibility of bias. I can say, however, that it has been my sincere purpose to consider and discuss the present subject, with the single view of finding out what duty it devolves upon me, as a member of the house of representatives. If any thing has diverted me from that sole aim, it has been against my intention.

I think, sir, that there are two questions, and two only for our decision. The first is, whether the house of representatives will assume the responsibility of withholding the ordinary appropriation for carrying into effect an executive measure, which the executive department has constitutionally instituted; the second, whether, if it will not withhold the appropriation, it will yet take the responsibility of interposing, with its own opinions, directions or instructions, as to the manner in which this particular executive measure shall be conducted.

I am, certainly, in the negative, on both these propositions. I am neither willing to refuse the appropriation, nor am I willing to limit or restrain the discretion of the executive, beforehand, as to the manner in which it shall perform its own appropriate constitutional duties. And, sir, those of us who hold these opinions have the advantage of being on the common highway of national politics. We propose nothing new; we suggest no change; we adhere to the uniform practice of the government, as I understood it, from its origin. It is for those, on the other hand, who are in favor of either, or both of the propositions, to show us the cogent reasons which recommend their adoption. The duty is on them, to satisfy the house and the country that there is something in the present occasion which calls for such an extraordinary and unprecedented interference.

The president and senate have instituted a public mission, for the purpose of treating with foreign states. The constitution gives to the president the power of appointing, with the consent of the senate, ambassadors, and other public ministers. Such appointment is, therefore, a clear and unquestionable exercise of executive power. It is, indeed, less connected with the appropriate duties of this house, than almost any other executive act; because the office of a public minister is not created by any statute or law of our own government. It exists under the law of nations, and is recognized as existing by our constitution. The acts of congress, indeed, limit the salaries of public ministers; but they do no more. Every thing else, in regard to the appointment of public ministers, their numbers, the time of their appointment, and the negotiations contemplated in such appointments, is matter for executive discretion. Every new appointment to supply vacancies in existing

missions, is under the same authority. There are, indeed, what we commonly term standing missions, so known in the practice of the government, but they are not made so by any law. All missions rest on the same ground. Now the question is, whether the president and senate, having created this mission, or, in other words, having appointed the ministers, in the exercise of their undoubted constitutional power, this house will take upon itself the responsibility of defeating its objects, and rendering this exercise of executive power void.

By voting the salaries, in the ordinary way, we assume, as it seems to me, no responsibility whatever. We merely empower another branch of the government to discharge its own appropriate duties, in that mode which seems to itself most conducive to the public interests. We are, by so voting, no more responsible for the manner in which the negotiation shall be conducted, than we are for the manner in which one of the heads of department may discharge the duties of his office.

On the other hand, if we withhold the ordinary means, we do incur a heavy responsibility. We interfere, as it seems to me, to prevent the action of the government, according to constitutional forms and provisions. It ought constantly to be remembered, that our whole power in the case is merely incidental. It is only because public ministers must have salaries, like other officers, and because no salaries can be paid, but by our vote, that the subject is referred to us at all. The constitution vests the power of appointment in the president and senate; the law gives to the president even the power of fixing the amount of salary, within certain limits; and the only question, here, is upon the appropriation. There is no doubt that we have the power, if we see fit to exercise it, to break up the mission, by withholding the salaries; we have power also to break up the court, by withholding the salaries of the judges, or to break up the office of president, by withholding the salary provided for it by law. All these things, it is true, we have the power to do, since we hold the keys of the treasury. But, then, can we rightfully exercise this power? The gentleman from Pennsylvania (Mr. Buchanan), with whom I have great pleasure in concurring on this part of the case, while I regret that I differ with him on others, has placed this question in a point of view which cannot be improved. These officers do, indeed, already exist. They are public ministers. If they were to negotiate a treaty, and the senate should ratify it, it would become a law of the land, whether we voted their salaries or not. This shows that the constitution never contemplated that the house of representatives should act a part in originating negotiations, or concluding treaties.

I know, sir, it is a useless labor to discuss the kind of power

which this house incidentally holds in these cases. Men will differ in that particular; and as the forms of public business and of the constitution are such, that the power may be exercised by this house, there will always be some, or always may be some, who feel inclined to exercise it. For myself, I feel bound not to step out of my own sphere, and neither to exercise nor control any authority, of which the constitution has intended to lodge the free and unrestrained exercise in other hands. Cases of extreme necessity, in which a regard to public safety is to be the supreme law, or rather to take place of all law, must be allowed to provide for themselves, when they arise. Reasoning from such possible cases, will shed no light on the general path of our constitutional duty.

Mr. Chairman, I have an habitual and very sincere respect for the opinions of the gentleman from Delaware. And I can say with truth, that he is the last man in the house from whom I should have looked for this proposition of amendment, or from whom I should have expected to hear some of the reasons which he has given in its support. He says, that, in this matter, the source from which the measure springs should have no influence with us whatever. I do not comprehend this; and I cannot but think the honorable gentleman has been surprised into an expression which does not convey his meaning. This measure comes from the executive, and it is an appropriate exercise of executive power. How is it, then, that we are to consider it as entirely an open question for us; as if it were a legislative measure, originating with ourselves? In deciding whether we will enable the executive to exercise his own duties, are we to consider whether we should have exercised them in the same way ourselves? And if we differ in opinion with the president and senate, are we on that account to refuse the ordinary means? I think not, unless we mean to say, that we will exercise, ourselves, all the powers of the government.

But the gentleman argues, that although, generally, such a course would not be proper, yet, in the present case, the president has especially referred the matter to our opinion; that he has thrown off, or attempted to throw off, his own constitutional responsibility; or, at least, that he proposes to divide it with us; that he requests our advice, and that we, having referred that request to the committee on foreign affairs, have now received from that committee their report thereon.

Sir, this appears to me a very mistaken view of the subject; but if it were all so—if our advice and opinion had thus been asked—it would not alter the line of our duty. We cannot take, though it were offered, any share in executive duty. We cannot divide their own proper responsibility with other branches of the

government. The president cannot properly ask, and we cannot properly give, our advice as to the manner in which he shall discharge his duties. He cannot shift the responsibility from himself, and we cannot assume it. Such a course, sir, would confound all that is distinct in the constitutional assignment of our respective functions. It would break down all known divisions of power, and put an end to all just responsibility. If the president were to receive directions or advice from us, in things pertaining to the duties of his own office, what becomes of his responsibility to us and to the senate? We hold the impeaching power. We are to bring him to trial in any case of mal-administration. The senate are to judge him by the constitution and laws; and it would be singular, indeed, if, when such occasion should arise, the party accused should have the means of sheltering himself under the advice or opinions of his accusers. Nothing can be more incorrect, or more dangerous, than this pledging the house beforehand to any opinion, as to the manner of discharging executive duties.

But, sir, I see no evidence whatever that the president has asked us to take this measure upon ourselves, or to divide the responsibility of it with him. I see no such invitation or request. The senate having concurred in the mission, the president has sent a message, requesting the appropriation, in the usual and common form. Another message is sent, in answer to a call of the house, communicating the correspondence, and setting forth the objects of the mission. It is contended that, by this message, he asks our advice, or refers the subject to our opinion. I do not so understand it. Our concurrence, he says, by making the appropriation, is subject to our free determination. Doubtless it is so. If we determine at all, we shall determine freely; and the message does no more than leave to ourselves to decide how far we feel ourselves bound, either to support or to thwart the executive department, in the exercise of its duties. There is no message, no document, no communication to us, which asks for our concurrence, otherwise than as we shall manifest it by making the appropriation.

Undoubtedly, sir, the president would be glad to know that the measure met the approbation of the house. He must be aware, unquestionably, that all leading measures mainly depend for success on the support of congress. Still, there is no evidence that on this occasion he has sought to throw off responsibility from himself, or that he desires of us to be answerable for any thing beyond the discharge of our own constitutional duties. I have already said, sir, that I know of no precedent for such a proceeding as the amendment proposed by the gentleman from Delaware. None which I think analogous has been cited. The resolution of the

house, some years ago, on the subject of the slave-trade, is a precedent the other way. A committee had reported, that, in order to put an end to the slave-trade, a mutual right of search might be admitted and arranged by negotiation. But this opinion was not incorporated, as the gentleman now proposes to incorporate his amendment, into the resolution of the house. The resolution only declared, in general terms, that the president be requested to enter upon such negotiations with other powers as he might deem expedient, for the effectual abolition of the African slave-trade. It is singular enough, and may serve as an admonition on the present occasion, that a negotiation having been concluded, in conformity to the opinions expressed, not, indeed, by the house, but by the committee, the treaty, when laid before the senate, was rejected by that body.

The gentleman from Delaware himself says, that the constitutional responsibility pertains alone to the executive department; and that none other has to do with it, as a public measure. These admissions seem to me to conclude the question; because, in the first place, if the constitutional responsibility appertains alone to the president, he cannot devolve it on us, if he would; and because, in the second place, I see no proof of any intention on his part, so to devolve it on us, even if he had the power.

Mr. Chairman: I will here take occasion, in order to prevent misapprehension, to observe, that no one is more convinced than I am, that it is the right of this house, and often its duty, to express its general opinion in regard to questions of foreign policy. Nothing, certainly, is more proper. I have concurred in such proceedings, and am ready to do so again. On those great subjects, for instance, which form the leading topics in this discussion, it is not only the right of the house to express its opinions, but I think it its duty to do so, if it should think the executive to be pursuing a general course of policy which the house itself will not ultimately approve. But that is something entirely different from the present suggestion. Here it is proposed to decide, by our vote, what shall be discussed by particular ministers, already appointed, when they shall meet the ministers of the other powers. This is not a general expression of opinion. It is a particular direction, or a special instruction. Its operation is limited to the conduct of particular men, on a particular occasion. Such a thing, sir, is wholly unprecedented in our history. When the house proceeds, in the accustomed way, by general resolution, its sentiments apply, as far as expressed, to all public agents, and on all occasions. They apply to the whole course of policy, and must, necessarily, be felt every where. But if we proceed by way of direction to particular ministers, we must direct them all. In short, we must ourselves furnish, in all cases, diplomatic instructions.

We now propose to prescribe what our ministers shall discuss, and what they shall not discuss, at Panama. But there is no subject coming up for discussion at Panama, which might not also be proposed for discussion either here or at Mexico, or in the capital of Colombia. If we direct what our ministers at Panama shall or shall not say on the subject of Mr. Monroe's declaration, for example, why should we not proceed to say also what our other ministers abroad, or our secretary at home, shall say on the same subject? There is precisely the same reason for one, as for the other. The course of the house, hitherto, sir, has not been such. It has expressed its opinions, when it deemed proper to express them at all, on great leading questions, by resolution, and in a general form. These general opinions, being thus made known, have doubtless always had, and such expressions of opinion doubtless always will have, their effect. This is the practice of the government. It is a salutary practice; but if we carry it farther, or rather if we adopt a very different practice, and undertake to prescribe to our public ministers what they shall not discuss, we take upon ourselves that which, in my judgment, does not at all belong to us. I see no more propriety in our deciding now, in what manner these ministers shall discharge their duty, than there would have been in our prescribing to the president and senate what persons ought to have been appointed ministers.

An honorable member from Virginia, who spoke some days ago (Mr. Rives), seems to go still farther than the member from Delaware. He maintains, that we may distinguish between the various objects contemplated by the executive in the proposed negotiation, and adopt some and reject others. And this high, delicate, and important trust, the gentleman deduces simply from our power to withhold the ministers' salaries. The process of the gentleman's argument appears to me as singular as its conclusion. He founds himself on the legal maxim, that he who has the power to give, may annex whatever condition or qualification to the gift he chooses. This maxim, sir, would be applicable to the present case, if we were the sovereigns of the country; if all power were in our hands; if the public money were entirely our own; if our appropriation of it were mere grace and favor; and if there were no restraints upon us, but our own sovereign will and pleasure. But the argument totally forgets that we are ourselves but public agents; that our power over the treasury is but that of stewards over a trust fund; that we have nothing to give, and therefore no gifts to limit, or qualify; that it is as much our duty to appropriate to proper objects, as to withhold appropriations from such as are improper; and that it is as much, and as clearly our duty to appropriate in a proper and constitutional manner, as to appropriate at all.

The same honorable member advanced another idea, in which I

cannot concur. He does not admit that confidence is to be reposed in the executive, on the present occasion, because confidence, he argues, implies only, that not knowing ourselves what will be done in a given case by others, we trust to those who are to act in it, that they will act right; and as we know the course likely to be pursued in regard to this subject by the executive, confidence can have no place. This seems a singular notion of confidence; certainly it is not my notion of that confidence which the constitution requires one branch of the government to repose in another. The president is not our agent, but, like ourselves, the agent of the people. They have trusted to his hands the proper duties of his office; and we are not to take those duties out of his hands, from any opinion of our own that we should execute them better ourselves. The confidence which is due from us to the executive, and from the executive to us, is not personal, but official and constitutional. It has nothing to do with individual likings or dislikings; but results from that division of power among departments, and those limitations on the authority of each, which belong to the nature and frame of our government.

It would be unfortunate, indeed, if our line of constitutional action were to vibrate, backward and forward, according to our opinions of persons, swerving this way to-day, from undue attachment, and the other way to-morrow, from distrust or dislike. This may sometimes happen from the weakness of our virtues, or the excitement of our passions; but I trust it will not be coolly recommended to us, as the rightful course of public conduct.

It is obvious to remark, Mr. Chairman, that the senate have not undertaken to give directions or instructions in this case. That body is closely connected with the president in executive measures. Its consent to these very appointments is made absolutely necessary by the constitution; yet it has not seen fit, in this or any other case, to take upon itself the responsibility of directing the mode in which the negotiations should be conducted.

For these reasons, Mr. Chairman, I am for giving no instructions, advice, or directions in the case. I prefer leaving it where, in my judgment, the constitution has left it—to executive discretion and executive responsibility.

But, sir, I think there are other objections to the amendment. There are parts of it which I could not agree to, if it were proper to attach any such condition to our vote. As to all that part of the amendment, indeed, which asserts the neutral policy of the United States, and the inexpediency of forming alliances, no man assents to those sentiments more readily, or more sincerely, than myself. On these points, we are all agreed. Such is our opinion; such, the president assures us, in terms, is his opinion; such we know to be the opinion of the country. If it be thought

necessary to affirm opinions which no one either denies or doubts, by a resolution of the house, I shall cheerfully concur in it. But there is one part of the proposed amendment to which I could not agree, in any form. I wish to ask the gentleman from Delaware himself to reconsider it. I pray him to look at it again, and to see whether he means what it expresses or implies; for, on this occasion, I should be more gratified by seeing that the honorable gentleman himself had become sensible that he had fallen into some error, in this respect, than by seeing the vote of the house against him by any majority whatever.

That part of the amendment to which I now object, is that which requires, as a condition of the resolution before us, that the ministers "shall not be authorized to discuss, consider, or consult upon any measure which shall commit the present or future neutral rights or duties of these United States, either as may regard European nations, or between the several states of Mexico and South America."

I need hardly repeat, that this amounts to a precise instruction. It being understood that the ministers shall not be authorized to discuss particular subjects, is a mode of speech precisely equivalent to saying, provided the ministers be instructed, or the ministers being instructed, not to discuss those subjects. After all that has been said, or can be said, about this amendment being no more than a general expression of opinion, or abstract proposition, this part of it is an exact and definite instruction. It prescribes to public ministers the precise manner in which they are to conduct a public negotiation; a duty manifestly and exclusively belonging, in my judgment, to the executive, and not to us.

But if we possessed the power to give instructions, this instruction would not be proper to be given. Let us examine it. The ministers shall not "discuss, consider, or consult," &c.

Now, sir, in the first place, it is to be observed, that they are not only not to agree to any such measure, but they are not to discuss it. If proposed to them, they are not to give reasons for declining it. Indeed, they cannot reject it; they can only say, that they are not authorized to consider it. Would it not be better, sir, to leave these agents at liberty to explain the policy of our government, fully and clearly, and to show the reasons which induce us to abstain, as far as possible, from foreign connections, and to act, in all things, with a scrupulous regard to the duties of neutrality?

But again: they are to discuss no measure which may commit our neutral rights or duties. To commit is somewhat indefinite. May they not modify nor in any degree alter our neutral rights and duties? If not, I hardly know whether a common treaty of commerce could be negotiated; because all such treaties affect or

modify, more or less, the neutral rights or duties of the parties; especially all such treaties as our habitual policy leads us to form. But I suppose the author of the amendment uses the word in a larger and higher sense. He means that the ministers shall not discuss or consider any measure which may have a tendency, in any degree, to place us in a hostile attitude towards any foreign state. And here, again, one cannot help repeating, that the injunction is, not to propose or assent to any such measure, but not to consider it; not to answer it, if proposed; not to resist it with reasons.

But, if this objection were removed, still the instruction could not properly be given. What important or leading measure is there, connected with our foreign relations, which can be adopted, without the possibility of committing us to the necessity of a hostile attitude? Any assertion of our plainest rights may, by possibility, have that effect. The author of the amendment seems to suppose that our pacific relations can never be changed, but by our own option. He seems not to be aware that other states may compel us, in defence of our own rights, to measures which, in their ultimate tendency, may commit our neutrality. Let me ask, if the ministers of other powers, at Panama, should signify to our agents, that it was in contemplation immediately to take some measure which these agents know to be hostile to our policy, adverse to our rights, and such as we could not submit to; should they be left free to speak the sentiments of their government, to protest against the measure, and to declare that the United States would not see it carried into effect? Or, should they, as this amendment proposes, be enjoined silence, let the measure proceed, and afterwards, when, perhaps, we go to war to redress the evil, we may learn, that if our objections had been fairly and frankly stated, the step would not have been taken? Look, sir, to the very case of Cuba, the most delicate, and vastly the most important point in all our foreign relations. Do gentlemen think they exhibit skill or statesmanship, in laying such restraints as they propose on our ministers, in regard to this subject among others? It has been made matter of complaint, that the executive has not used, already, a more decisive tone towards Mexico and Colombia, in regard to their designs on this island. Pray, sir, what tone could be taken, under these instructions? Not one word, not one single word could be said on the subject. If asked whether the United States would consent to the occupation of that island by those republics, or to its transfer by Spain to a European power—or whether we should resist such occupation or such transfer—what could they say? "That is a matter we cannot discuss, and cannot consider; it would commit our neutral relations; we are not at liberty to express the sentiments of our government on the sub-

ject: we have nothing at all to say." Is this, sir, what gentlemen wish, or what they would recommend?

If, sir, we give these instructions, and they should be obeyed, and inconvenience or evil result, who is answerable? And I suppose it is expected they will be obeyed. Certainly it cannot be intended to give them, and not to take the responsibility of consequences, if they be followed. It cannot be intended to hold the president answerable both ways; first, to obey our instructions, and, secondly, for having obeyed them, if evil comes from obeying them.

Sir, events may change. If we had the power to give instructions, and if these proposed instructions were proper to be given, before we arrive at our own homes, affairs may take a new direction, and the public interest require new and corresponding orders to our agents abroad.

This is said to be an extraordinary case, and, on that account, to justify our interference. If the fact were true, the consequence would not follow. If it be the exercise of a power assigned by the constitution to the executive, it can make no difference whether the occasion be common or uncommon. But, in truth, there have been much stronger cases for the interference of the house, where, nevertheless, the house has not interfered. For example; in the negotiations for peace carried on at Ghent. In that case, congress, by both houses, had declared war, for certain alleged causes. After the war had lasted some years, the president, with the advice of the senate, appointed ministers to treat of peace; and he gave them such instructions as he saw fit. Now, as the war was declared by congress, and was waged to obtain certain ends, it would have been plausible to say that congress ought to know the instructions under which peace was to be negotiated, that they might see whether the objects for which the war was declared had been abandoned. Yet no such claim was set up. The president gave instructions, such as his judgment dictated, and neither house asserted any right of interference.

Sir, there are gentlemen in this house, opposed to this mission, who, I hope, will nevertheless consider this question of amendment on general constitutional grounds. They are gentlemen of much estimation in the community, likely, I hope, long to continue in the public service; and, I trust, they will well reflect on the effect of this amendment on the separate powers and duties of the several departments of the government.

An honorable member from Pennsylvania (Mr. Hemphill) has alluded to a resolution introduced by me the session before the last. I should not have referred to it myself, had he not invited the reference; but I am happy in the opportunity of showing how that resolution coincides with every thing which I say to-day. What

was that resolution? When an interesting people were struggling for national existence against a barbarous despotism, when there were good hopes (hopes, yet, I trust, to be fully realized) of their success, and when the holy alliance had pronounced against them certain false and abominable doctrines, I moved the house to resolve—what? Simply that provision ought to be made by law to defray the expense of an agent or commissioner to that country, whenever the president should deem it expedient to make such appointment. Did I propose any instruction to the president, or any limit on his discretion? None at all, sir; none at all. What resemblance then can be found between that resolution and this amendment? Let those who think any such resemblance exists, adopt, if they will, the words of the resolution, as a substitute for this amendment. We shall gladly take them.

I am, therefore, Mr. Chairman, against the amendment; not only as not being a proper manner of exercising any power belonging to this house, but also as not containing instructions fit to be given, if we possessed the power of giving them. And as my vote will rest on these grounds, I might terminate my remarks here; but the discussion has extended over a broader surface, and, following where others have led, I will ask your indulgence to a few observations on the more general topics of the debate.

Mr. Chairman, it is our fortune to be called upon to act our part, as public men, at a most interesting era in human affairs. The short period of your life, and of mine, has been thick and crowded with the most important events. Not only new interests and new relations have sprung up among states, but new societies, new nations and families of nations have risen to take their places, and perform their parts, in the order and the intercourse of the world. Every man aspiring to the character of a statesman, must endeavor to enlarge his views to meet this new state of things. He must aim at adequate comprehension, and instead of being satisfied with that narrow political sagacity, which, like the power of minute vision, sees small things accurately, but can see nothing else, he must look to the far horizon, and embrace, in his broad survey, whatever the series of recent events has brought into connection, near or remote, with the country whose interests he studies to serve. We have seen eight states, formed out of colonies on our own continent, assume the rank of nations.

This is a mighty revolution; and when we consider what an extent of the surface of the globe they cover; through what climates they extend; what population they contain, and what new impulses they must derive from this change of government,—we cannot but perceive that great effects are likely to be produced on the intercourse and the interests of a civilized world. Indeed, it has been forcibly said, by the intelligent and distinguished statesman

who conducts the foreign relations of England, that when we now speak of Europe and the world, we mean Europe and America; and that the different systems of these two portions of the globe, and their several and various interests, must be thoroughly studied and nicely balanced by the statesmen of the times.

In many respects, sir, the European and the American nations are alike. They are alike Christian states, civilized states, and commercial states. They have access to the same common fountains of intelligence; they all draw from those sources which belong to the whole civilized world. In knowledge and letters—in the arts of peace and war—they differ in degrees; but they bear, nevertheless, a general resemblance. On the other hand, in matters of government and social institution, the nations on this continent are founded upon principles which never did prevail, in considerable extent, either at any other time, or in any other place. There has never been presented to the mind of man a more interesting subject of contemplation than the establishment of so many nations in America, partaking in the civilization and in the arts of the old world, but having left behind them those cumbrous institutions which had their origin in a dark and military age. Whatsoever European experience has developed favorable to the freedom and the happiness of man; whatsoever European genius has invented for his improvement or gratification; whatsoever of refinement or polish the culture of European society presents for his adoption and enjoyment,—all this is offered to man in America, with the additional advantages of the full power of erecting forms of government on free and simple principles, without overturning institutions suited to times long passed, but too strongly supported, either by interests or prejudices, to be shaken without convulsions. This unprecedented state of things presents the happiest of all occasions for an attempt to establish national intercourse upon improved principles; upon principles tending to peace and the mutual prosperity of nations. In this respect America, the whole of America, has a new career before her. If we look back on the history of Europe, we see how great a portion of the last two centuries her states have been at war for interests connected mainly with her feudal monarchies; wars for particular dynasties; wars to support or defeat particular successions; wars to enlarge or curtail the dominions of particular crowns; wars to support or to dissolve family alliances; wars, in fine, to enforce or to resist religious intolerance. What long and bloody chapters do these not fill, in the history of European politics! Who does not see, and who does not rejoice to see, that America has a glorious chance of escaping, at least, these causes of contention? Who does not see, and who does not rejoice to see, that, on this continent, under other forms of government, we have before us the no-

ble hope of being able, by the mere influence of civil liberty and religious toleration, to dry up these outpouring fountains of blood, and to extinguish these consuming fires of war. The general opinion of the age favors such hopes and such prospects. There is a growing disposition to treat the intercourse of nations more like the useful intercourse of friends; philosophy—just views of national advantage, good sense, and the dictates of a common religion, and an increasing conviction that war is not the interest of the human race—all concur to increase the interest created by this new accession to the list of nations.

We have heard it said, sir, that the topic of South American independence is worn out, and threadbare. Such it may be, sir, to those who have contemplated it merely as an article of news, like the fluctuation of the markets, or the rise and fall of stocks. Such it may be, to those minds who can see no consequences following from these great events. But whoever has either understood their present importance, or can at all estimate their future influence; whoever has reflected on the new relations they introduce with other states; whoever, among ourselves especially, has meditated on the new relations which we now bear to them, and the striking attitude in which we ourselves are now placed, as the oldest of the American nations, will feel that the topic can never be without interest, and will be sensible that, whether we are wise enough to perceive it or not, the establishment of South American independence will affect all nations, and ourselves perhaps more than any other, through all coming time.

But, sir, although the independence of these new states seems effectually accomplished, yet a lingering and hopeless war is kept up against them by Spain. This is greatly to be regretted by all nations. To Spain it is, as every reasonable man sees, useless, and without hope. To the new states themselves it is burdensome and afflictive. To the commerce of neutral nations it is annoying and vexatious. There seems to be something of the pertinacity of the Spanish character in holding on in such a desperate course. It reminds us of the seventy years during which Spain resisted the independence of Holland. I think, however, that there is some reason to believe that the war approaches to its end. I believe that the measures adopted by our own government have had an effect in tending to produce that result. I understand, at least, that the question of recognition has been taken into consideration by the Spanish government; and it may be hoped that a war, which Spain finds to be so expensive, which the whole world tells her is so hopeless, and which, if continued, now threatens her with new dangers, she may, ere long, have the prudence to terminate.

Our own course, during this contest between Spain and her colonies, is well known. Though entirely and strictly neutral,

we were in favor of early recognition. Our opinions were known to the allied sovereigns when in congress at Aix-la-Chapelle, in 1818, at which time the affairs of Spain and her colonies were under consideration; and, probably, the knowledge of those sentiments, together with the policy adopted by England, prevented any interference by other powers at that time. Yet we have treated Spain with scrupulous delicacy. We acted on the case as one of civil war. We treated with the new governments as governments *de facto*. Not questioning the right of Spain to coerce them back to their old obedience, if she had the power, we yet held it to be our right to deal with them as with existing governments in fact, when the moment arrived at which it became apparent and manifest that the dominion of Spain over these, her ancient colonies, was at an end. Our right, our interest, and our duty, all concurred at that moment to recommend recognition—and we did recognize.

Now, sir, the history of this proposed congress goes back to an earlier date than that of our recognition. It commenced in 1821; and one of the treaties now before us, proposing such a meeting, that between Colombia and Chili, was concluded in July, 1822, a few months only after we had acknowledged the independence of the new states. The idea originated, doubtless, in the wish to strengthen the union among the new governments, and to promote the common cause of all, the effectual resistance to Spanish authority. As independence was at that time their leading object, it is natural to suppose that they contemplated this mode of mutual intercourse and mutual arrangement, as favorable to the necessary concentration of purpose, and of action, for the attainment of that object. But this purpose of the congress, or this leading idea, in which it may be supposed to have originated, has led, as it seems to me, to great misapprehensions as to its true character, and great mistakes in regard to the danger to be apprehended from our sending ministers to the meeting. This meeting, sir, is a congress; not a congress as the word is known to our constitution and laws, for we use it in a peculiar sense; but as it is known to the law of nations. A congress, by the law of nations, is but an appointed meeting for the settlement of affairs between different nations, in which the representatives or agents of each treat and negotiate as they are instructed by their own government. In other words, this congress is a diplomatic meeting. We are asked to join no government, no legislature, no league, acting by votes. It is a congress such as those of Westphalia, of Nimeguen, of Ryswyck, or of Utrecht; or such as those which have been holden in Europe in our own time. No nation is a party to any thing done in such assemblies, to which it does not expressly make itself a party. No one's rights are put at the disposition of any of the rest, or of

all the rest. What ministers agree to, being afterwards duly ratified at home, binds their government; and nothing else binds the government. Whatsoever is done, to which they do not assent, neither binds the ministers nor their government, any more than if they had not been present.

These truths, sir, seem too plain and too common-place to be stated. I find my apology only in those misapprehensions of the character of the meeting to which I have referred both now and formerly. It has been said that commercial treaties are not negotiated at such meetings. Far otherwise is the fact. Among the earliest of important stipulations made in favor of commerce and navigation, were those at Westphalia. And what we call the treaty of Utrecht was a bundle of treaties, negotiated at that congress; some of peace, some of boundary, and others of commerce. Again, it has been said, in order to prove that this meeting is a sort of confederacy, that such assemblies are out of the way of ordinary negotiation, and are always founded on, and provided for, by previous treaties. Pray, sir, what treaty preceded the congress at Utrecht? and the meeting of our plenipotentiaries with those of England at Ghent, what was that but a congress? and what treaty preceded it? It is said, again, that there is no sovereign to whom our ministers can be accredited. Let me ask whether, in the case last cited, our ministers exhibited their credentials to the mayor of Ghent? Sir, the practice of nations in these matters, is well known, and is free of difficulty. If the government be not present, agents or plenipotentiaries interchange their credentials. And when it is said that our ministers at Panama will be, not ministers, but deputies, members of a deliberative body, not protected in their public character by the public law; when all this is said, propositions are advanced, of which I see no evidence whatever, and which appear to me to be wholly without foundation.

It is contended that this congress, by virtue of the treaties which the new states have entered into, will possess powers other than those of a diplomatic character, as between those new states themselves. If that were so, it would be unimportant to us. The real question here is, What will be our relation with those states, by sending ministers to this congress? Their arrangements among themselves will not affect us. Even if it were a government like our old confederation, yet, if its members had authority to treat with us in behalf of their respective nations on subjects on which we have a right to treat, the congress might still be a very proper occasion for such negotiations. Do gentlemen forget that the French minister was introduced to our old congress, met it in its sessions, carried on oral discussions with it, and treated with it in behalf of the French king? All that did not make him a member of it, nor connect him at all with the relations which its members

bore to each other. As he treated on the subject of carrying on the war against England, it was, doubtless, hostile towards that power; but this consequence followed from the object and nature of the stipulations, and not from the manner of the intercourse. The representatives of these South American states, it is said, will carry on belligerent councils at this congress. Be it so; we shall not join in such councils. At the moment of invitation, our government informed the ministers of those states, that we could not make ourselves a party to the war between them and Spain, nor to councils for deliberating on the means of its further prosecution.

If, it is asked, we send ministers to a congress composed altogether of belligerents, is it not a breach of neutrality? Certainly not: no man can say it is. Suppose, sir, that these ministers from the new states, instead of Panama, were to assemble at Bogota, where we already have a minister; their councils, at that place, might be belligerent, while the war should last with Spain. But should we, on that account, recall our minister from Bogota? The whole argument rests on this; that because, at the same time and place, the agents of the South American governments may negotiate about their own relations with each other, in regard to their common war against Spain, therefore we cannot, at the same time and place, negotiate with them, or any of them, upon our own neutral and commercial relations. This proposition, sir, cannot be maintained, and, therefore, all the inferences from it fail.

But, sir, I see no proof that, as between themselves, the representatives of the South American states are to possess other than diplomatic powers. I refer to the treaties, which are essentially alike, and which have been often read.

With two exceptions (which I will notice), the articles of these treaties, describing the powers of the congress, are substantially like those in the treaty of Paris, in 1814, providing for the congress of Vienna. It was there stipulated that all the powers should send plenipotentiaries to Vienna, to regulate, in general congress, the arrangements to complete the provisions of the present treaty. Now, it might have been here asked, how regulate? How regulate in general congress?—regulate by votes? Sir, nobody asked such questions, simply because it was to be a congress of plenipotentiaries. The two exceptions which I have mentioned are, that this congress is to act as a council and to interpret treaties; but there is nothing in either of these to be done which may not be done diplomatically. What is more common than diplomatic intercourse, to explain and to interpret treaties? Or what more frequent than that nations, having a common object, interchange mutual counsels and advice, through the medium of their respective ministers? To bring this matter, sir, to the test,

let me ask, when these ministers assemble at Panama, can they do any thing but according to their instructions? Have they any organization, any power of action, or any rule of action common to them all? No more, sir, than the respective ministers at the congress of Vienna. Every thing is settled by the use of the word plenipotentiary. That proves the meeting to be diplomatic, and nothing else. Who ever heard of a plenipotentiary member of the legislature?—a plenipotentiary burgess of a city?—or a plenipotentiary knight of the shire?

We may dismiss all fears, sir, arising from the nature of this meeting. Our agents will go there, if they go at all, in the character of ministers, protected by the public law, negotiating only for ourselves, and not called on to violate any neutral duty of their own government. If it be so that this meeting has other powers, in consequence of other arrangements between other states, of which I see no proof, still we are not party to these arrangements, nor can be in any way affected by them. As far as this government is concerned, nothing can be done but by negotiation, as in other cases.

It has been affirmed that this measure, and the sentiments expressed by the executive relative to its objects, are an acknowledged departure from the neutral policy of the United States. Sir, I deny there is an acknowledged departure, or any departure at all, from the neutral policy of the country. What do we mean by our neutral policy? Not, I suppose, a blind and stupid indifference to whatever is passing around us; not a total disregard to approaching events, or approaching evils, till they meet us full in the face. Nor do we mean, by our neutral policy, that we intend never to assert our rights by force. No, sir. We mean, by our policy of neutrality, that the great objects of national pursuit with us are connected with peace. We covet no provinces; we desire no conquest; we entertain no ambitious projects of aggrandizement by war. This is our policy. But it does not follow, from this, that we rely less than other nations on our own power to vindicate our own rights. We know that the last logic of kings is also our last logic; that our own interests must be defended and maintained by our own arm; and that peace or war may not always be of our own choosing. Our neutral policy, therefore, not only justifies, but requires our anxious attention to the political events which take place in the world, a skilful perception of their relation to our own concerns, an early anticipation of their consequences, and firm and timely assertion of what we hold to be our own rights, and our own interests. Our neutrality is not a predetermined abstinence, either from remonstrances or from force. Our neutral policy is a policy that protects neutrality, that defends neutrality, that takes up arms, if need be, for neutrality. When

it is said, therefore, that this measure departs from our neutral policy, either that policy, or the measure itself, is misunderstood. It implies either that the object or the tendency of the measure is to involve us in the war of other states, which I think cannot be shown, or that the assertion of our own sentiments, on points affecting deeply our own interests, may place us in a hostile attitude with other states, and that, therefore, we depart from neutrality; whereas the truth is, that the decisive assertion, and the firm support of these sentiments, may be most essential to the maintenance of neutrality.

An honorable member from Pennsylvania thinks this congress will bring a dark day over the United States. Doubtless, sir, it is an interesting moment in our history; but I see no great proofs of thick-coming darkness. But the object of the remark seemed to be to show that the president himself saw difficulties on all sides, and, making a choice of evils, preferred rather to send ministers to this congress, than to run the risk of exciting the hostility of the states by refusing to send. In other words, the gentleman wished to prove that the president intended an alliance; although such intention is expressly disclaimed.

Much commentary has been bestowed on the letters of invitation from the ministers. I shall not go through with verbal criticisms on these letters. Their general import is plain enough. I shall not gather together small and minute quotations, taking a sentence here, a word there, and a syllable in a third place, dovetailing them into the course of remark, till the printed discourse bristles with inverted commas, in every line, like a harvest-field. I look to the general tenor of the invitations, and I find that we are asked to take part only in such things as concern ourselves. I look still more carefully to the answers, and I see every proper caution, and proper guard. I look to the message, and I see that nothing is there contemplated, likely to involve us in other men's quarrels, or that may justly give offence to any foreign state. With this, I am satisfied.

I must now ask the indulgence of the committee to an important point in the discussion: I mean the declaration of the president in 1823. Not only as a member of the house, but as a citizen of the country, I have an anxious desire that this part of our public history should stand in its proper light. Sir, in my judgment the country has a very high honor, connected with that occurrence, which we may maintain, or which we may sacrifice. I look upon it as a part of its treasures of reputation, and, for one, I intend to guard it.

Sir, let us recur to the important political events which led to that declaration, or accompanied it. In the fall of 1822, the allied sovereigns held their congress at Verona. The great subject of

consideration was the condition of Spain, that country then being under the government of the Cortes. The question was, whether Ferdinand should be reinstated in all his authority, by the intervention of foreign force. Russia, Prussia, France, and Austria, were inclined to that measure; England dissented and protested; but the course was agreed on, and France, with the consent of these other continental powers, took the conduct of the operation into her own hands. In the spring of 1823, a French army was sent into Spain. Its success was complete. The popular government was overthrown, and Ferdinand reëstablished in all his power. This invasion, sir, was determined on, and undertaken, precisely on the doctrines which the allied monarchs had proclaimed the year before, at Laybach; and that is, that they had a right to interfere in the concerns of another state, and reform its government, in order to prevent the effects of its bad example; this bad example, be it remembered, always being the example of free government. Now, sir, acting on this principle of supposed dangerous example, and having put down the example of the Cortes in Spain, it was natural to inquire with what eyes they would look on the colonies of Spain, that were following still worse examples. Would king Ferdinand and his allies be content with what had been done in Spain itself, or would he solicit their aid, and was it likely they would grant it, to subdue his rebellious American provinces?

Sir, it was in this posture of affairs, on an occasion which has already been alluded to, that I ventured to say, early in the session of December, 1823, that these allied monarchs might possibly turn their attention to America; that America came within their avowed doctrine, and that her examples might very possibly attract their notice. The doctrines of Laybach were not limited to any continent; Spain had colonies in America, and having reformed Spain herself to the true standard, it was not impossible that they might see fit to complete the work by reconciling, in their way, the colonies to the mother country. Now, sir, it did so happen, that as soon as the Spanish king was completely reëstablished, he did invite the coöperation of his allies, in regard to South America. In the same month of December, of 1823, a formal invitation was addressed by Spain to the courts of St. Petersburg, Vienna, Berlin, and Paris, proposing to establish a conference at Paris, in order that the plenipotentiaries, there assembled, might aid Spain in adjusting the affairs of her revolted provinces. These affairs were proposed to be adjusted in such manner as should retain the sovereignty of Spain over them; and though the coöperation of the allies, by force of arms, was not directly solicited, such was evidently the object aimed at.

The king of Spain, in making this request to the members of

the Holy Alliance, argued, as it had been seen he might argue. He quoted their own doctrines of Laybach; he pointed out the pernicious example of America; and he reminded them that their success, in Spain itself, had paved the way for successful operations against the spirit of liberty on this side the Atlantic.

The proposed meeting, however, did not take place. England had already taken a decided course; for, as early as October, Mr. Canning, in a conference with the French minister in London, informed him, distinctly and expressly, that England would consider any foreign interference, by force or by menace, in the dispute between Spain and the colonies, as a motive for recognizing the latter, without delay.

It is probable this determination of the English government was known here, at the commencement of the session of congress; and it was under these circumstances, it was in this crisis, that Mr. Monroe's declaration was made. It was not then ascertained whether a meeting of the allies would, or would not, take place, to concert with Spain the means of reëstablishing her power; but it was plain enough they would be pressed by Spain to aid her operations; and it was plain enough, also, that they had no particular liking to what was taking place on this side the Atlantic, nor any great disinclination to interfere. This was the posture of affairs; and, sir, I concur entirely in the sentiment expressed in the resolution of a gentleman from Pennsylvania (Mr. Markley), that this declaration of Mr. Monroe was wise, seasonable, and patriotic.

It has been said, in the course of this debate, to have been a loose and vague declaration. It was, I believe, sufficiently studied. I have understood, from good authority, that it was considered, weighed, and distinctly and decidedly approved by every one of the president's advisers at that time. Our government could not adopt, on that occasion, precisely the course which England had taken. England threatened the immediate recognition of the provinces, if the allies should take part with Spain against them. We had already recognized them. It remained, therefore, only for our government to say how we should consider a combination of the allied powers, to effect objects in America, as affecting ourselves; and the message was intended to say, what it does say, that we should regard such combination as dangerous to us. Sir, I agree with those who maintain the proposition, and I contend against those who deny it, that the message did mean something; that it meant much; and I maintain, against both, that the declaration effected much good, answered the end designed by it, did great honor to the foresight and the spirit of the government, and that it cannot now be taken back, retracted, or annulled, without disgrace. It met, sir, with the entire concurrence and the hearty approbation of the country. The tone which it uttered found a

corresponding response in the breasts of the free people of the United States. That people saw, and they rejoiced to see, that, on a fit occasion, our weight had been thrown into the right scale, and that, without departing from our duty, we had done something useful, and something effectual, for the cause of civil liberty. One general glow of exultation—one universal feeling of the gratified love of liberty—one conscious and proud perception of the consideration which the country possessed, and of the respect and honor which belonged to it—pervaded all bosoms. Possibly the public enthusiasm went too far; it certainly did go far. But, sir, the sentiment which this declaration inspired was not confined to ourselves. Its force was felt every where, by all those who could understand its object, and foresee its effect. In that very house of commons, of which the gentleman from South Carolina has spoken with such commendation, how was it there received? Not only, sir, with approbation, but, I may say, with no little enthusiasm. While the leading minister expressed his entire concurrence in the sentiments and opinions of the American president, his distinguished competitor in that popular body, less restrained by official decorum, more at liberty to give utterance to the feeling of the occasion, declared that no event had ever created greater joy, exultation, and gratitude, among all the freemen in Europe; that he felt pride in being connected, by blood and language, with the people of the United States; that the policy disclosed by the message became a great, a free, and an independent nation; and that he hoped his own country would be prevented by no mean pride, or paltry jealousy, from following so noble and glorious an example.

It is doubtless true, as I took occasion to observe the other day, that this declaration must be considered as founded on our rights, and to spring mainly from a regard to their preservation. It did not commit us at all events to take up arms, on any indication of hostile feeling by the powers of Europe towards South America. If, for example, all the states of Europe had refused to trade with South America, until her states should return to their former allegiance, that would have furnished no cause of interference to us. Or, if an armament had been furnished by the allies to act against provinces the most remote from us, as Chili or Buenos Ayres, the distance of the scene of action diminishing our apprehension of danger, and diminishing also our means of effectual interposition, might still have left us to content ourselves with remonstrance. But a very different case would have arisen, if an army, equipped and maintained by these powers, had been landed on the shores of the gulf of Mexico, and commenced the war in our own immediate neighborhood. Such an event might justly be regarded as dangerous to ourselves, and, on that ground, to have called for

decided and immediate interference by us. The sentiments and the policy announced by the declaration, thus understood, were, therefore, in strict conformity to our duties and our interest.

Sir, I look on the message of December, 1823, as forming a bright page in our history. I will neither help to erase it, or tear it out; nor shall it be, by any act of mine, blurred or blotted. It did honor to the sagacity of the government, and I will not diminish that honor. It elevated the hopes, and gratified the patriotism of the people. Over those hopes I will not bring a mildew; nor will I put that gratified patriotism to shame.

But how should it happen, sir, that there should now be such a new-born fear, on the subject of this declaration? The crisis is over; the danger is past. At the time it was made, there was real ground for apprehension: now there is none. It was then possible, perhaps not improbable, that the allied powers might interfere with America. There is now no ground for any such fear. Most of the gentlemen, who have now spoken on the subject, were at that time here. They all heard the declaration. Not one of them complained. And yet, now, when all danger is over, we are vehemently warned against the sentiments of the declaration.

To avoid this apparent inconsistency, it is, however, contended, that new force has been recently given to this declaration. But of this, I see no evidence whatever. I see nothing in any instructions or communications from our government changing the character of that declaration in any degree. There is, as I have before said, in one of Mr. Poinsett's letters, an inaccuracy of expression. If he has recited correctly his conversation with the Mexican minister, he did go too far; farther than any instructions warranted. But, taking his whole correspondence together, it is quite manifest that he has deceived nobody, nor has he committed the country. On the subject of a pledge, he put the Mexican minister entirely right. He stated to him, distinctly, that this government had given no pledge which others could call upon it to redeem. What could be more explicit? Again, sir: it is plain that Mexico thought us under no greater pledge than England; for the letters to the English and American ministers, requesting interference, were in precisely the same words. When this passage in Mr. Poinsett's letter was first noticed, we were assured there was and must be some other authority for it. It was confidently said he had instructions, authorizing it, in his pocket. It turns out otherwise. As little ground is there to complain of any thing in the secretary's letter to Mr. Poinsett. It seems to me to be precisely what it should be. It does not, as has been alleged, propose any coöperation between the government of Mexico and our own. Nothing like it. It instructs our ministers to

bring to the notice of the Mexican government the line of policy which we have marked out for ourselves—acting on our own grounds, and for our own interests; and to suggest to that government, acting on its own ground, and for its own interests, the propriety of following a similar course. Here, sir, is no alliance, nor even any coöperation.

So, again, as to the correspondence which refers to the appearance of the French fleet in the West India seas. Be it remembered, that our government was contending, in the course of this correspondence with Mexico, for an equality in matters of commerce. It insisted on being placed, in this respect, on the same footing as the other South American states. To enforce this claim, our known friendly sentiments towards Mexico, as well as to the rest of the new states, were suggested—and properly suggested. Mexico was reminded of the timely declaration which had been made of these sentiments. She was reminded that she herself had been well inclined to claim the benefit resulting from that declaration, when a French fleet appeared in the neighboring seas; and she was referred to the course adopted by our government on that occasion, with an intimation, that she might learn from it how the same government would have acted if other possible contingencies had happened. What is there, in all this, of any renewed pledge, or what is there of any thing beyond the true line of our policy? Do gentlemen mean to say, that the communication made to France, on this occasion, was improper? Do they mean to repel and repudiate that declaration? That declaration was, that we could not see Cuba transferred from Spain to another European power. If the house mean to contradict that—be it so. If it do not, then, as the government had acted properly in this case, it did furnish ground to believe it would act properly, also, in other cases, when they arose. And the reference to this incident or occurrence by the secretary, was pertinent to the argument which he was pressing on the Mexican government.

I have but a word to say on the subject of the declaration against European colonization in America. The late president seems to have thought the occasion used by him for that purpose to be a proper one for the open avowal of a principle which had already been acted upon. Great and practical inconveniences, it was feared, might be apprehended, from the establishment of new colonies in America, having a European origin and a European connection. Attempts of that kind, it was obvious, might possibly be made, amidst the changes that were taking place, in Mexico, as well as in the more southern states. Mexico bounds us, on a vast length of line, from the gulf of Mexico to the Pacific ocean. There are many reasons why it should not be desired by

us, that an establishment, under the protection of a different power, should occupy any portion of that space. We have a general interest, that through all the vast territories rescued from the dominion of Spain, our commerce might find its way, protected by treaties with governments existing on the spot. These views, and others of a similar character, rendered it highly desirable to us, that these new states should settle it, as a part of their policy, not to allow colonization within their respective territories. True, indeed, we did not need their aid to assist us in maintaining such a course for ourselves; but we had an interest in their assertion and support of the principle as applicable to their own territories.

I now proceed, Mr. Chairman, to a few remarks on the subject of Cuba, the most important point of our foreign relations. It is the hinge on which interesting events may possibly turn. I pray gentlemen to review their opinions on this subject before they fully commit themselves. I understood the honorable member from South Carolina to say, that if Spain chose to transfer this island to any power in Europe, she had a right to do so, and we could not interfere to prevent it. Sir, this is a delicate subject. I hardly feel competent to treat it as it deserves; and I am not quite willing to state here all that I think about it. I must, however, dissent from the opinion of the gentleman from South Carolina. The right of nations, on subjects of this kind, are necessarily very much modified by circumstances. Because England or France could not rightfully complain of the transfer of Florida to us, it by no means follows, as the gentleman supposes, that we could not complain of the cession of Cuba to one of them. The plain difference is, that the transfer of Florida to us was not dangerous to the safety of either of those nations, nor fatal to any of their great and essential interests. Proximity of position, neighborhood, whatever augments the power of injuring and annoying, very properly belong to the consideration of all cases of this kind. The greater or less facility of access itself is of consideration in such questions, because it brings, or may bring, weighty consequences with it. It justifies, for these reasons, and on these grounds, what otherwise might never be thought of. By negotiation with a foreign power, Mr. Jefferson obtained a province. Without any alteration of our constitution, we have made it part of the United States, and its senators and representatives, now coming from several states, are here among us. Now, sir, if, instead of being Louisiana, this had been one of the provinces of Spain proper, or one of her South American colonies, he must have been a madman, that should have proposed such an acquisition. A high conviction of its convenience, arising from proximity, and from close natural connection, alone reconciled the country to the measure. Considerations of the same sort have weight in other cases.

An honorable member from Kentucky (Mr. Wickliffe) argues, that although we might rightfully prevent another power from taking Cuba from Spain, by force, yet if Spain should choose to make the voluntary transfer, we should have no right whatever to interfere. Sir, this is a distinction without a difference. If we are likely to have contention about Cuba, let us first well consider what our rights are, and not commit ourselves. And, sir, if we have any right to interfere at all, it applies as well to the case of a peaceable, as to that of a forcible transfer. If nations be at war, we are not judges of the question of right, in that war; we must acknowledge, in both parties, the mutual right of attack, and the mutual right of conquest. It is not for us to set bounds to their belligerent operations, so long as they do not affect ourselves. Our right to interfere, sir, in any such case, is but the exercise of the right of reasonable and necessary self-defence. It is a high and delicate exercise of that right; one not to be made but on grounds of strong and manifest reason, justice and necessity. The real question is, whether the possession of Cuba by a great maritime power of Europe, would seriously endanger our own immediate security, or our essential interests. I put the question, sir, in the language of some of the best considered state papers of modern times. The general rule of national law is, unquestionably, against interference in the transactions of other states. There are, however, acknowledged exceptions, growing out of circumstances, and founded in those circumstances. These exceptions, it has been properly said, cannot, without danger, be reduced to previous rule, and incorporated into the ordinary diplomacy of nations. Nevertheless, they do exist, and must be judged of, when they arise, with a just regard to our own essential interests, but in a spirit of strict justice and delicacy also towards foreign states.

The ground of these exceptions is, as I have already stated, self-preservation. It is not a slight injury to our interest; it is not even a great inconvenience, that makes out a case. There must be danger to our security, or danger, manifest and imminent danger, to our essential rights, and our essential interests. Now, sir, let us look at Cuba. I need hardly refer to its present amount of commercial connection with the United States. Our statistical tables, I presume, would show us, that our commerce with the Havanna alone is more in amount than our whole commercial intercourse with France and all her dependencies. But this is but one part of the case, and not the most important. Cuba, as is well said in the report of the committee of foreign affairs, is placed in the mouth of the Mississippi. Its occupation by a strong maritime power would be felt, in the first moment of hostility, as far up the Mississippi and the Missouri, as our population extends. It is the commanding point of the gulf of Mexico. See, too,

how it lies in the very line of our coastwise traffic; interposed in the very highway between New York and New Orleans.

Now, sir, who has estimated, or who can estimate, the effect of a change, which should place this island in other hands, subject it to new rules of commercial intercourse, or connect it with objects of a different and still more dangerous nature? Sir, I repeat that I feel no disposition to pursue this topic, on the present occasion. My purpose is only to show its importance, and to beg gentlemen not to prejudice any rights of the country by assenting to propositions, which, perhaps, may be necessary to be reviewed.

And here I differ again with the gentleman from Kentucky. He thinks that, in this, as in other cases, we should wait till the event comes, without any previous declaration of our sentiments upon subjects important to our own rights or our own interests. Sir, such declarations are often the appropriate means of preventing that which, if unprevented, it might be difficult to redress. A great object in holding diplomatic intercourse, is frankly to expose the views and objects of nations, and to prevent, by candid explanation, collision and war. In this case, the government has said that we could not assent to the transfer of Cuba to another European state. Can we so assent? Do gentlemen think we can? If not, then it was entirely proper that this intimation should be frankly and seasonably made. Candor required it; and it would have been unpardonable, it would have been injustice, as well as folly, to have been silent, while we might suppose the transaction to be contemplated, and then to complain of it afterwards. If we should have a subsequent right to complain, we have a previous right, equally clear, of protesting; and if the evil be one, which, when it comes, would allow us to apply a remedy, it not only allows us, but it makes it our duty, also, to apply prevention.

But, sir, while some gentlemen have maintained, that on the subject of a transfer to any of the European powers, the president has said too much, others insist that on that of the islands being occupied by Mexico or Colombia, he has said and done too little. I presume, sir, for my own part, that the strongest language has been directed to the source of greatest danger. Heretofore that danger was, doubtless, greatest, which was apprehended from a voluntary transfer. The other has been met, as it arose, and, thus far, adequately and sufficiently met. And here, sir, I cannot but say that I never knew a more extraordinary argument than we have heard on the conduct of the executive on this part of the case. The president is charged with inconsistency; and, in order to make this out, public despatches are read, which, it is said, militate with one another.

Sir, what are the facts? This government saw fit to invite the emperor of Russia to use his endeavors to bring Spain to treat of

peace with her revolted colonies. Russia was addressed on this occasion as the friend of Spain; and, of course, every argument which it was thought might have influence, or ought to have influence, either on Russia or Spain, was suggested in the correspondence. Among other things, the probable loss to Spain, of Cuba and Puerto Rico, was urged; and the question was asked, how it was, or could be expected by Spain, that the United States could interfere, to prevent Mexico and Colombia from taking those islands from her, since she was their enemy, in a public war, and since she pertinaciously, and unreasonably, as we think, insists on maintaining the war; and since these islands offered an obvious object of attack? Was not this, sir, a very proper argument to be urged to Spain? A copy of this despatch, it seems, was sent to the senate. in confidence. It has not been published by the executive. Now, the alleged inconsistency is, that, notwithstanding this letter, the president has interfered to dissuade Mexico and Colombia from attacking Cuba; that, finding or thinking that those states meditated such a purpose, this government has urged them to desist from it. Sir, was ever any thing more unreasonable than this charge? Was it not proper, that, to produce the desired result of peace, our government should address different motives to the different parties in the war? Was it not its business to set before each party its dangers and its difficulties, in pursuing the war? And if, now, by any thing unexpected, these respective correspondences have become public, are these different views, addressed thus to different parties, and with different objects, to be relied on as proof of inconsistency? It is the strangest accusation ever heard of. No government, not wholly destitute of common sense, would have acted otherwise. We urged the proper motives to both parties. To Spain we urged the probable loss of Cuba; we showed her the dangers of its capture by the new states; and we asked her to inform us on what ground it was, that we could interfere to prevent such capture, since she was at war with these states, and they had an unquestionable right to attack her in any of her territories; and especially she was asked how she could expect good offices from us, on this occasion, since she fully understood our opinion to be, that she was persisting in the war without, or beyond all reason, and with a sort of desperation. This was the appeal made to the good sense of Spain, through Russia. But, soon afterwards, having reason to suspect that Colombia and Mexico were actually preparing to attack Cuba, and knowing that such an event would most seriously affect us, our government remonstrated against such meditated attack, and to the present time it has not been made. In all this, who sees any thing either improper or inconsistent? For myself, I think the course pursued showed a watchful regard to our own interest, and is

wholly free from any imputation, either of impropriety or inconsistency.

There are other subjects, sir, in the president's message, which have been discussed in the debate, but on which I shall not detain the committee.

It cannot be denied, that from the commencement of our government, it has been its object to improve and simplify the principles of national intercourse. It may well be thought a fit occasion to urge these improved principles, at a moment when so many new states are coming into existence, untrammelled, of course, with previous and long-established connections or habits. Some hopes of benefit, connected with these topics, are suggested in the message.

The abolition of private war on the ocean is also among the subjects of possible consideration. This is not the first time that that subject has been mentioned. The late president took occasion to enforce the considerations which he thought recommended it. For one, I am not prepared to say how far such abolition may be practicable, or how far it ought to be pursued; but there are views belonging to the subject, which have not been, in any degree, answered or considered in this discussion.

Sir, it is not always the party that has the power of employing the largest military marine, that enjoys the advantage by authorizing privateers in war. It is not enough that there are brave and gallant captors: there must be something to be captured. Suppose, sir, a war between ourselves and any one of the new states of South America were now existing, who would lose most, by the practice of privateering, in such a war? There would be nothing for us to attack; while the means of attacking us would flow to our enemies from every part of the world. Capital, ships, and men, would be abundant in all their ports, and our commerce, spread over every sea, would be the destined prey. So, again, if war should unhappily spring up among those states themselves, might it not be for our interest, as being likely to be much connected by intercourse with all parties, that our commerce should be free from the visitation and search of private armed ships; one of the greatest vexations to neutral commerce in time of war? These, sir, are some of the considerations belonging to this subject. I have mentioned them only to show that they well deserve serious attention.

I have not intended to reply to the many observations which have been submitted to us, on the message of the president to this house, or that to the senate. Certainly I am of opinion, that some of those observations merited an answer, and they have been answered by others. On two points only will I make a remark. It has been said, and often repeated, that the president, in his mes-

sage to the senate, has spoken of his own power in regard to missions, in terms which the constitution does not warrant. If gentlemen will turn to the message of president Washington, relative to the mission to Lisbon, in the tenth volume of State Papers, they will see almost the exact form of expression used in this case. The other point on which I would make a remark, is the allegation that an unfair use has been made in the argument of the message, of general Washington's Farewell Address. There would be no end, sir, to comments and criticisms of this sort, if they were to be pursued. I only observe, that, as it appears to me, the argument of the message, and its use of the Farewell Address, are not fairly understood. It is not attempted to be inferred from the Farewell Address, that, according to the opinion of Washington, we ought now to have alliances with foreign states. No such thing. The Farewell Address recommends to us to abstain as much as possible from all sorts of political connection with the states of Europe, alleging, as the reason for this advice, that Europe has a set of primary interests of her own, separate from ours, and with which we have no natural connection. Now the message argues, and argues truly, that the new South American states, not having a set of interests of their own, growing out of the balance of power, family alliances, &c., separate from ours, in the same manner and to the same degree as the primary interests of Europe were represented to be, this part of the Farewell Address, aimed at those separate interests expressly, did not apply in this case. But does the message infer from this the propriety of alliances with these new states? Far from it. It infers no such thing. On the contrary, it disclaims all such purpose.

There is one other point, sir, on which common justice requires a word to be said. It has been alleged, that there are material differences as to the papers sent respectively to the two houses. All this, as it seems to me, may be easily and satisfactorily explained. In the first place, the instructions of May, 1823, which, it is said, were not sent to the senate, were instructions on which a treaty had been already negotiated; which treaty had been subsequently ratified by the senate. It may be presumed that, when the treaty was sent to the senate, the instructions accompanied it; and if so, they were actually already before the senate; and this accounts for one of the alleged differences. In the next place, the letter to Mr. Middleton, in Russia, not sent to the house, but now published by the senate, is such a paper as possibly the president might not think proper to make public. There is evident reason for such an inference. And, lastly, the correspondence of Mr. Brown, sent here, but not to the senate, appears, from its date, to have been received after the communication to the senate.

Probably when sent to us, it was also sent, by another message, to that body.

These observations, sir, are tedious and uninteresting. I am glad to be through with them. And here I might terminate my remarks, and relieve the patience, now long and heavily taxed, of the committee. But there is one part of the discussion, on which I must ask to be indulged with a few observations.

Pains, sir, have been taken by the honorable member from Virginia, to prove that the measure now in contemplation, and, indeed, the whole policy of the government respecting South America, is the unhappy result of the influence of a gentleman formerly filling the chair of this house. To make out this, he has referred to certain speeches of that gentleman delivered here. He charges him with having become himself affected at an early day with what he is pleased to call the South American fever, and with having infused its baneful influence into the whole councils of the country.

If, sir, it be true, that that gentleman, prompted by an ardent love of civil liberty, felt, earlier than others, a proper sympathy for the struggling colonies of South America; or that, acting on the maxim that revolutions do not go backward, he had the sagacity to foresee, earlier than others, the successful termination of those struggles; if, thus feeling, and thus perceiving, it fell to him to lead the willing or unwilling councils of his country, in her manifestations of kindness to the new governments, and in her seasonable recognition of their independence; if it be this which the honorable member imputes to him; if it be by this course of public conduct that he has identified his name with the cause of South American liberty,—he ought to be esteemed one of the most fortunate men of the age. If all this be, as is now represented, he has acquired fame enough. It is enough for any man thus to have connected himself with the greatest events of the age in which he lives, and to have been foremost in measures which reflect high honor on his country, in the judgment of mankind. Sir, it is always with great reluctance that I am drawn to speak, in my place here, of individuals; but I could not forbear what I have now said, when I hear, in the house of representatives, and in this land of free spirits, that it is made matter of imputation and of reproach, to have been first to reach forth the hand of welcome and of succor to new-born nations, struggling to obtain and to enjoy the blessings of liberty.

We are told that the country is deluded and deceived by cabalistic words. Cabalistic words! If we express an emotion of pleasure at the results of this great action of the spirit of political liberty; if we rejoice at the birth of new republican nations, and express our joy by the common terms of regard and sympathy;

if we feel and signify high gratification that, throughout this whole continent, men are now likely to be blest by free and popular institutions; and if, in the uttering of these sentiments, we happen to speak of sister republics—of the great American family of nations—or of the political system and forms of government of this hemisphere,—then, indeed, it seems we deal in senseless jargon, or impose on the judgment and feeling of the community by cabalistic words! Sir, what is meant by this? Is it intended that the people of the United States ought to be totally indifferent to the fortunes of these new neighbors? Is no change, in the lights in which we are to view them, to be wrought by their having thrown off foreign dominion, established independence, and instituted, on our very borders, republican governments, essentially after our own example?

Sir, I do not wish to overrate—I do not overrate—the progress of these new states in the great work of establishing a well-secured popular liberty. I know that to be a great attainment, and I know they are but pupils in the school. But, thank God, they are in the school. They are called to meet difficulties, such as neither we nor our fathers encountered. For these we ought to make large allowances. What have we ever known like the colonial vassalage of these states? When did we or our ancestors feel, like them, the weight of a political despotism that presses men to the earth, or of that religious intolerance which would shut up heaven to all but the bigoted? Sir, we sprung from another stock. We belong to another race. We have known nothing—we have felt nothing—of the political despotism of Spain, nor of the heat of her fires of intolerance. No rational man expects that the south can run the same rapid career as the north; or that an insurgent province of Spain is in the same condition as the English colonies when they first asserted their independence. There is, doubtless, much more to be done in the first than in the last case. But on that account the honor of the attempt is not less; and if all difficulties shall be in time surmounted, it will be greater. The work may be more arduous; it is not less noble, because there may be more of ignorance to enlighten—more of bigotry to subdue—more of prejudice to eradicate. If it be a weakness to feel a strong interest in the success of these great revolutions, I confess myself guilty of that weakness. If it be weak to feel that I am an American, to think that recent events have not only opened new modes of intercourse, but have created also new grounds of regard and sympathy between ourselves and our neighbors; if it be weak to feel that the south, in her present state, is somewhat more emphatically a part of America, than when she lay obscure, oppressed and unknown, under the grinding bondage of a foreign power; if

it be weak to rejoice, when, even in any corner of the earth, human beings are able to get up from beneath oppression, to erect themselves, and to enjoy the proper happiness of their intelligent nature;—if this be weak, it is a weakness from which I claim no exemption.

A day of solemn retribution now visits the once proud monarchy of Spain. The prediction is fulfilled. The spirit of Montezuma and of the Incas might now well say,

> "Art thou, too, fallen, Iberia? Do we see
> The robber and the murderer weak as we?
> Thou! that has wasted earth, and dared despise
> Alike the wrath and mercy of the skies,—
> Thy pomp is in the grave; thy glory laid
> Low in the pit thine avarice has made."

Mr. Chairman, I will detain you only with one more reflection on this subject. We cannot be so blind—we cannot so shut up our senses, and smother our faculties, as not to see, that in the progress and the establishment of South American liberty, our own example has been among the most stimulating causes. That great light—a light which can never be hid—the light of our own glorious revolution, has shone on the path of the South American patriots, from the beginning of their course. In their emergencies, they have looked to our experience; in their political institutions, they have followed our models; in their deliberations, they have invoked the presiding spirit of our own liberty. They have looked steadily, in every adversity, to the great northern light. In the hour of bloody conflict, they have remembered the fields which have been consecrated by the blood of our own fathers; and when they have fallen, they have wished only to be remembered with them, as men who had acted their parts bravely, for the cause of liberty in the western world.

Sir, I have done. If it be weakness to feel the sympathy of one's nature excited for such men, in such a cause, I am guilty of that weakness. If it be prudence to meet their proffered civility, not with reciprocal kindness, but with coldness or with insult, I choose still to follow where natural impulse leads, and to give up that false and mistaken prudence, for the voluntary sentiments of my heart.

AN ORATION,

PRONOUNCED AT CAMBRIDGE, BEFORE

THE SOCIETY OF PHI BETA KAPPA,

AUGUST 26, 1824.

BY EDWARD EVERETT.

Mr. President, and Gentlemen,

In discharging the honorable trust of being the public organ of your sentiments on this occasion, I have been anxious that the hour which we here pass together, should be occupied by those reflections exclusively which belong to us as scholars. Our association in this fraternity is academical; we engaged in it before our *alma mater* dismissed us from her venerable roof, to wander in the various paths of life; and we have now come together in the academical holidays, from every variety of pursuit, from almost every part of our country, to meet on common ground, as the brethren of one literary household. The professional cares of life, like the conflicting tribes of Greece, have proclaimed to us a short armistice, that we may come up in peace to our Olympia.

But from the wide field of literary speculation, and the innumerable subjects of meditation which arise in it, a selection must be made. And it has seemed to me proper, that we should direct our thoughts, not merely to a subject of interest to scholars, but to one which may recommend itself as peculiarly appropriate to us. If 'that old man eloquent, whom the dishonest victory at Cheronæa killed with report,' could devote fifteen years to the composition of his Panegyric on Athens, I shall need no excuse to a society of American scholars, in choosing for the theme of an address, on an occasion like this, the peculiar motives to intellectual exertion in America. In this subject, that curiosity which every scholar feels in tracing and comparing the springs of mental activity, is heightened and dignified by the important connection of the inquiry with the condition and prospects of our native land.

In the full comprehension of the terms, the motives to intellectual exertion in a country embrace the most important springs of national character. Pursued into its details, the study of these springs of national character is often little better than fanciful spec-

ulation. The questions, why Asia has almost always been the abode of despotism, and Europe more propitious to liberty; why the Egyptians were abject and melancholy; the Greeks inventive, elegant, and versatile; the Romans stern, saturnine, and, in matters of literature, for the most part, servile imitators of a people whom they conquered, despised, and never equalled; why tribes of barbarians from the north and east, not known to differ essentially from each other at the time of their settlement in Europe, should have laid the foundation of national characters so dissimilar as those of the Spanish, French, German, and English nations;—these are questions to which a few general answers may be attempted, that will probably be just and safe only in proportion as they are vague and comprehensive. Difficult as it is, even in the individual man, to point out precisely the causes, under the influence of which members of the same community and of the same family, placed apparently in the same circumstances, grow up with characters the most diverse; it is infinitely more difficult to perform the same analysis on a subject so vast as a nation, where it is first not a small question what the character is, before you touch the inquiry into the circumstances by which it was formed.

But as, in the case of individual character, there are certain causes of undisputed and powerful operation, there are, also, in national character, causes equally undisputed of improvement and excellence, on the one hand, and of degeneracy and decline, on the other. The philosophical student of history, the impartial observer of man, may often fix on circumstances, which, in their operation on the minds of the people, in furnishing the motives and giving the direction to intellectual exertion, have had the chief agency in making them what they were or are. Nor are there many exercises of the speculative principle more elevated than this. It is in the highest degree curious to trace physical facts into their political, intellectual and moral consequences; and to show how the climate, the geographical position, and even the particular topography of a region, connect themselves by evident association with the state of society, its predominating pursuits, and characteristic institutions.

In the case of other nations, particularly of those which in the great drama of the world have long since passed from the stage, these speculations are often only curious. The operation of a tropical climate in enervating and fitting a people for despotism; the influence of a broad river or a lofty chain of mountains, in arresting the march of conquest or of emigration, and thus becoming the boundary, not merely of governments, but of languages, literature, institutions and character; the effect of a quarry of fine marble on the progress of the liberal arts; the agency of popular institutions in promoting popular eloquence, and the tremendous reaction of popular eloquence on the fortunes of a state; the comparative

destiny of colonial settlements, of insular states, of tribes fortified in nature's Alpine battlements, or scattered over a smiling region of olive gardens and vineyards;—these are all topics, indeed, of rational curiosity and liberal speculation, but important only as they may illustrate the prospects of our own country.

It is, therefore, when we turn the inquiry to our country, when we survey its features, search its history, and contemplate its institutions, to see what the motives are, which are to excite and guide the minds of the people; when we dwell, not on a distant, an uncertain, an almost forgotten past, but on an impending future, teeming with life and action, toward which we are rapidly and daily swept forward, and with which we stand in the dearest connection which can bind the generations of man together; a future, which our own characters, our own actions, our own principles, will do something to stamp with glory or shame;—it is then that the inquiry becomes practical, momentous, and worthy the attention of every patriotic scholar. We then strive, as far as it is in the power of philosophical investigation to do it, to unfold our country's reverend auspices, to cast its great horoscope in the national sky, where many stars are waning, and many have set; to ascertain whether the soil which we love, as that where our fathers are laid, and we shall presently be laid with them, will be trod in times to come by a virtuous, enlightened and free people.

The first of the circumstances which are acting, and will continue to act, with a strong peculiarity among us, and which must prove one of the most powerful influences in exciting and directing the intellect of the country, is the new form of political society, which has here been devised and established. I shall not wander so far from the literary limits of this occasion, nor into a field so oft trodden, as the praises of free political institutions. But the direct and appropriate influence on mental effort of institutions like ours, has not yet, perhaps, received the attention, which, from every American scholar, it richly deserves. I have ventured to say, that a new form of polity has here been devised and established. The ancient Grecian republics, indeed, were free enough within the walls of the single city, of which many of them were wholly or chiefly composed; but to these single cities the freedom, as well as the power, was confined. Toward the confederated or tributary states, the government was generally a despotism, more capricious, and not less severe, than that of a single tyrant. Rome, as a state, was never free. In every period of her history, authentic and dubious, royal, republican, and imperial, her proud citizens were the slaves of an artful, accomplished, wealthy aristocracy; and nothing but the hard-fought battles of her stern tribunes can redeem her memory to the friends of liberty. In ancient and modern history, there is no example, before our own, of a purely elective and representative system. It is on an entirely novel plan,

that, in this country, the whole direction and influence of affairs, —all the trusts and honors of society,—the power of making, abrogating and administering the laws,—the whole civil authority and sway, from the highest post in the government to the smallest village trust, are put directly into the market of merit. Whatsoever efficacy there is in high station and exalted honors, to call out and exercise the powers, either by awakening the emulation of the aspirants or exciting the efforts of the incumbents, is here directly exerted on the largest mass of men, with the smallest possible deductions. Nothing is bestowed on the chance of birth, nothing flows through the channel of hereditary family interests; but whatever is desired must be sought in the way of a broad, fair, personal competition. It requires little argument to show, that such a system must most widely and most powerfully have the effect of appealing to whatever of energy the land contains; of searching out, with magnetic instinct, in the remotest quarters, the latent ability of its children.

It may be objected, and it has been, that, for want of an hereditary government, we lose that powerful spring of action which resides in the patronage of such a government, and must emanate from the crown. With many individuals, friendly to our popular institutions, it is nevertheless an opinion, that we must consent to lose something of the genial influence of princely and royal patronage on letters and arts, and find our consolation in the political benefits of our free system. It may be doubted, however, whether this view be not entirely false. As no one can suppose, that the mere fact of the existence of an hereditary government adds any thing to the resources of the people, independent of other causes, whatever is gained by concentrating an active patronage in the metropolis and in the central administration, must be lost by withdrawing the means of patronage from the distant portions of the state and all its subordinate institutions. The effect produced on the civilization and intellectual growth of a country, by concentrating the means and the control of patronage, at one political metropolis, may be compared to that, which would be produced on the civilization of Europe, by subverting its various independent governments, annihilating the numerous seats of improvement which are scattered over its surface, reducing to a dead level the mass of the population, and building upon the ruins of all the local institutions one great metropolitan centre.—It is plain that, whatever might be gained in the splendor of the rewards and the intensity of the excitement, at the great fountain of honor, would be lost a hundred times over, by destroying all the motives to exertion and all the means of education, enjoyed by the mass of men. By this process, the public patronage is not merely withdrawn from the majority of those who might be influenced by it, but much of it is annihilated. On the contrary, by the

healthful action of our representative system, it is made to pervade the empire like the air; to reach the farthest, descend to the lowest, and bind the distant together. It is made not only to coöperate with the successful and assist the prosperous, but to cheer the remote, "to remember the forgotten, to attend to the neglected, to visit the forsaken." Before the rising of our republic in the world, the faculties of men have had but one weary pilgrimage to perform—to travel up to court. By an improvement on the Jewish polity, which enjoined on the nation a visit thrice a year to the holy city, the great, the munificent, the enlightened states of the ancient and modern world have required a constant residence on the chosen spot. Provincial has become another term for inferior and rude; and unpolite, which once meant only rural, has got to signify, in all our languages, something little better than barbarous. But since, in the nature of things, a small part only of the population of a large state can, by physical possibility, be crowded within the walls of a city, and there receive the genial beams of metropolitan favor, it follows that the great mass of men are cut off from the operation of some of the strongest excitements to exertion. It is rightfully urged then, as a great advantage of our system, that the excitements of society go down as low as its burdens, and search out and bring forward whatsoever of ability and zeal are comprehended within the limits of the land. This is but the beginning of the benefit, or rather it is not yet the benefit. It is the effect of this diffusion of privileges that is precious. Capacity and opportunity, the twin-sisters, who can scarce subsist but with each other, are now brought together. The people who are to choose, and from whose number are to be chosen, by their neighbors, the highest offices of state, infallibly feel an impulse to mental activity; they read, think, and compare; they found village schools, they collect social libraries, they prepare their children for the higher establishments of education. The world, I think, has been abused on the tendency of institutions perfectly popular. From the ill-organized states of antiquity, terrific examples of license and popular misrule are quoted, to prove that man requires to be protected from himself, without asking who is to protect him from the protector, himself also a man; while, from the very first settlement of America to the present day, the most prominent trait of our character has been to cherish and diffuse the means of education. The village schoolhouse, and the village church, are the monuments which the American people have erected to their freedom; to read, and write, and think, are the licentious practices which have characterized our democracy.

But it will be urged, perhaps, that, though the effect of our institutions be to excite the intellect of the nation, they excite it

too much in a political direction; that the division and subdivision of the country into states and districts, and the equal diffusion throughout them of political privileges and powers, whatever favorable effect in other ways they may produce, are attended by this evil,—that they kindle a political ambition, where it would not and ought not be felt; and particularly that they are unfriendly in their operation on literature, as they call the aspiring youth, from the patient and laborious vigils of the student, to plunge prematurely into the conflicts of the forum. It may, however, be doubted, whether there be any foundation whatever for a charge like this; and whether the fact, so far as it is one, that the talent and ambition of the country incline, at present, to a political course, be not owing to causes wholly unconnected with the free character of our institutions. It need not be said that the administration of the government of a country, whether it be liberal or despotic, is the first thing to be provided for. Some persons must be employed in making and administering the laws, before any other interest can receive attention. Our fathers, the pilgrims, before they left the vessel, in which for five months they had been tossed on the ocean, before setting foot on the new world of their desire, drew up a simple constitution of government. As this is the first care in the order of nature, it ever retains its paramount importance. Society must be preserved in its constituted forms, or there is no safety for life, no security for property, no permanence for any institution, civil, moral, or religious. The first efforts then of social men, are, of necessity, political. Apart from every call of ambition, honorable or selfish—of interest, enlarged or mercenary—the care of the government is the first care of a civilized community. In the early stages of social progress, where there is little property and a scanty population, the whole strength of the society must be employed in its support and defence. Though we are constantly receding from these stages, we have not wholly left them. Even our rapidly-increasing population is, and will for some time remain, small, compared with the space over which it is diffused; and this, with the total absence of large hereditary fortunes, will create a demand for political services, on the one hand, and a necessity of rendering them, on the other. There is then no ground for ascribing the political tendency of the talent and activity of this country to an imagined incompatibility of popular institutions with the profound cultivation of letters. Suppose our government were changed to-morrow; that the five points of a stronger government were introduced, an hereditary sovereign, an order of nobility, an established church, a standing army, and a vigilant police; and that these should take place of that admirable system, which now, like the genial air, pervades all, supports all, cheers all, and is no where seen. Suppose this

change made, and other circumstances to remain the same ; our population no more dense, our boundaries as wide, and the accumulation of private wealth no more abundant,—would there, in the new state of things, be less interest in politics? By the terms of the supposition, the leading class of the community, the nobles, are to be politicians by birth. By the nature of the case, a large portion of the remainder, who gain their livelihood by their industry and talents, would be engrossed, not indeed in the free political competition which now prevails, but in pursuing the interests of rival court factions. One class only, the peasantry, would remain, which would take less interest in politics than the corresponding class in a free state; or rather, this is a new class, which invariably comes in with a strong government ; and no one can seriously think the cause of science and literature would be promoted, by substituting a European peasantry, in the place of, perhaps, the most substantial, uncorrupted population on earth, the American yeomanry. Moreover, the evil in question is with us a self-correcting evil. If the career of politics be more open, and the temptation to crowd it stronger, competition will spring up, numbers will engage in the pursuit ; the less able, the less industrious, the less ambitious, must retire, and leave the race to the swift and the battle to the strong. But in hereditary governments, no such remedy exists. One class of society, by the nature of its position, must be rulers, magistrates or politicians. Weak or strong, willing or unwilling, they must play the game, though they, as well as the people, pay the bitter forfeit. The obnoxious king can seldom shake off the empoisoned purple ; he must wear the crown of thorns, till it is struck off at the scaffold ; and the same artificial necessity has obliged generations of nobles, in all the old states of Europe, to toil and bleed for a

"Power too great to keep or to resign."

Where the compulsion stops short of these afflicting extremities, still, under the governments in question, a large portion of the community is unavoidably destined to the calling of the courtier, the soldier, the party retainer ; to a life of service, intrigue, and court attendance; and thousands, and those the prominent individuals in society, are brought up to look on a livelihood gained by private industry as base ; on study as the pedant's trade, on labor as the badge of slavery. I look in vain, in institutions like these, for any thing essentially favorable to intellectual progress. On the contrary, while they must draw away the talent and ambition of the country, quite as much as popular institutions can do it, into pursuits foreign from the culture of the intellect, they necessarily doom to obscurity no small part of the mental energy of the land. For that mental energy has been equally diffused by sterner level-

lers than ever marched in the van of a revolution,—the nature of man and the providence of God. Native character, strength and quickness of mind, are not of the number of distinctions and accomplishments that human institutions can monopolize within a city's walls. In quiet times, they remain and perish in the obscurity to which a false organization of society consigns them. In dangerous, convulsed and trying times, they spring up in the fields, in the village hamlets, and on the mountain tops, and teach the surprised favorites of human law, that bright eyes, skilful hands, quick perceptions, firm purpose, and brave hearts, are not the exclusive *appanage* of courts. Our popular institutions are favorable to intellectual improvement, because their foundation is in dear nature. They do not consign the greater part of the social frame to torpidity and mortification. They send out a vital nerve to every member of the community, by which its talents and power, great or small, are brought into living conjunction and strong sympathy with the kindred intellect of the nation ; and every impression on every part vibrates with electric rapidity through the whole. They encourage nature to perfect her work ; they make education, the soul's nutriment, cheap ; they bring up remote and shrinking talent into the cheerful field of competition ; in a thousand ways they provide an audience for lips which nature has touched with persuasion ; they put a lyre into the hands of genius ; they bestow on all who deserve it or seek it, the only patronage worth having, the only patronage that ever struck out a spark of "celestial fire,"—the patronage of fair opportunity. This is a day of improved education. New systems of teaching are devised; modes of instruction, choice of studies, adaptation of text-books, the whole machinery of means, have been brought in our day under severe revision. But were I to attempt to point out the most efficacious and comprehensive improvement in education, the engine by which the greatest portion of mind could be brought and kept under cultivation, the discipline which would reach farthest, sink deepest, and cause the word of instruction, not to spread over the surface like an artificial hue, carefully laid on, but to penetrate to the heart and soul of its objects, it would be popular institutions. Give the people an object in promoting education, and the best methods will infallibly be suggested by that instinctive ingenuity of our nature, which provides means for great and precious ends. Give the people an object in promoting education, and the worn hand of labor will be opened to the last farthing, that its children may enjoy means denied to itself. This great contest about black boards and sand tables will then lose something of its importance, and even the exalted names of Bell and Lancaster may sink from that very lofty height, where an over-hasty admiration has placed them.

But though it be conceded to us, that the tendency which is alleged to exist in this country toward the political career, is not a vicious effect of our free institutions, still it may be inquired, whether the new form of social organization among us is at least to produce no corresponding modification of our literature. As the country advances, as the population becomes denser, as wealth accumulates, as the various occasions of a large, prosperous and polite community call into strong action and vigorous competition the literary talent of the country, will no peculiar form or direction be given to its literature by the nature of its institutions? To this question an answer must, without hesitation, be given in the affirmative. Literature, as well in its origin as in its true and only genuine character, is but a more perfect communication of man with man, and mind with mind. It is a grave, sustained, deliberate utterance of fact, of opinion, and feeling; or a free and happy reflection of nature, of characters, or of manners; and if it be not these, it is poor imitation. It may, therefore, be assumed as certain, that the peculiarity of our condition and institutions will be reflected in some peculiarity of our literature; but what that shall be, it is as yet too early to say. Literary history informs us of many studies, which have been neglected, as dangerous to existing governments; and many others, which have been cultivated because they were prudent and safe. We have hardly the means of settling, from analogy, what direction the mind will most decisively take, when left under strong excitements to action, wholly without restraint from the arm of power. It is impossible to anticipate what garments our native muses will weave for themselves. To foretell our literature would be to create it. There was a time before an epic poem, a tragedy, or an historical composition had ever been produced by the wit of man. It was a time of vast and powerful empires, of populous and wealthy cities. But these new and beautiful forms of human thought and feeling all sprang up in Greece under the *stimulus* of her free institutions. Before they appeared in the world, it would have been idle for the philosopher to form conjectures as to the direction which the kindling genius of the age was to assume. He who could form, could and would realize the anticipation, and it would cease to be an anticipation. Assuredly epic poetry was invented then, and not before, when the gorgeous vision of the Iliad, not in its full detail of circumstance, but in the dim conception of its leading scenes and sterner features, burst into the soul of Homer. Impossible, indeed, were the task fully to foretell the progress of the mind, under the influence of institutions as new, as peculiar, and far more animating than those of Greece. But if, as no one will deny, our political system bring more minds into action on equal terms; if it provide a prompter circulation of thought throughout the community; if it

give weight and emphasis to more voices; if it swell to tens of thousands and millions those "sons of emulation who crowd the narrow strait where honor travels,"—then it seems not too much to expect some peculiarity, at least, if we may not call it improvement, in that literature which is but the voice and utterance of all this mental action. There is little doubt that the instrument of communication itself will receive great improvements; that the written and spoken language will acquire force and power; possibly, that forms of address, wholly new, will be struck out, to meet the universal demand for new energy. When the improvement or the invention (whatever it be) comes, it will come unlooked for, as well to its happy author as the world. But where great interests are at stake, great concerns rapidly succeeding each other, depending on almost innumerable wills, and yet requiring to be apprehended in a glance, and explained in a word; where movements are to be given to a vast empire, not by transmitting orders, but by diffusing opinions, exciting feelings, and touching the electric chord of sympathy,—there language and expression will become intense, and the old processes of communication must put on a vigor and a directness adapted to the aspect of the times. Our country is called, as it is, practical; but this is the element for intellectual action. No strongly-marked and high-toned literature — poetry, eloquence, or ethics — ever appeared but in the pressure, the din, and crowd of great interests, great enterprises, perilous risks, and dazzling rewards. Statesmen, and warriors, and poets, and orators, and artists, start up under one and the same excitement. They are all branches of one stock. They form, and cheer, and stimulate, and, what is worth all the rest, understand each other; and it is as truly the sentiment of the student, in the recesses of his cell, as of the soldier in the ranks, which breathes in the exclamation—

> "To all the sons of sense proclaim,
> One glorious hour of crowded life
> Is worth an age without a name."

But we are brought back to the unfavorable aspect of the subject, by being reminded out of history of the splendid patronage which arbitrary governments have bestowed on letters, and which, from the nature of the case, can hardly be extended even to the highest merit, under institutions like our own. We are told of the munificent pensions, the rich establishments, the large foundations; of the museums erected, the libraries gathered, the endowments granted, by Ptolemies, Augustuses, and Louises of ancient and modern days. We are asked to remark the fruit of this noble patronage; wonders of antiquarian or scientific lore, Thesauruses and Corpuses, efforts of erudition from which the emulous student,

who would read all things, weigh all things, surpass all things, recoils in horror ; volumes, and shelves of volumes, before which meek-eyed patience folds her hands in despair.

When we have contemplated these things, and turn our thoughts back to our poor republican land, to our frugal treasury, and the caution with which it is dispensed ; to our modest fortunes, and the thrift with which they are hoarded ; to our scanty public libraries, and the plain brick walls within which they are deposited,—we may be apt to form gloomy auguries of the influence of free political institutions on our literature. It is important, then, that we examine more carefully the experience of former ages, and see how far their institutions, as they have been more or less popular, have been more or less associated with displays of intellectual excellence. When we make this examination, we shall be gratified to find, that the precedents are all in favor of liberty. The greatest efforts of human genius have been made where the nearest approach to free institutions has taken place. There shone not forth one ray of intellectual light, to cheer the long and gloomy ages of the Memphian and Babylonian despots. Not an historian, not an orator, not a poet, is heard of in their annals. When you ask, what was achieved by the generations of thinking beings, the millions of men, whose natural genius was as bright as that of the Greeks, nay, who forestalled the Greeks in the first invention of many of the arts,—you are told that they built the pyramids of Memphis, the temples of Thebes, and the tower of Babylon, and carried Sesostris and Ninus, upon their shoulders, from the west of Africa to the Indus. Mark the contrast in Greece. With the first emerging of that country into the light of political liberty, the poems of Homer appear. Some centuries of political misrule and literary darkness follow, and then the great constellation of their geniuses seem to rise at once. The stormy eloquence and the deep philosophy, the impassioned drama and the grave history, were all produced for the entertainment of that "fierce democratie" of Athens. Here, then, the genial influence of liberty on letters, is strongly put to the test. Athens was certainly a free state; free to licentiousness,—free to madness. The rich were arbitrarily pillaged to defray the expenses of the state ; the great were banished to appease the envy of their rivals ; the wise sacrificed to the fury of the populace. It was a state, in short, where liberty existed with most of the imperfections which have led men to love and praise despotism. Still, however, it was for this lawless, merciless people, that the most chastised and accomplished literature which the world has known was produced. The philosophy of Plato was the attraction which drew to a morning's walk in the olive gardens of the academy, the young men of this factious city. Those tumultuous assemblies of Athens—the very same, which

rose in their wrath, and to a man, and clamored for the blood of Phocion—required to be addressed, not in the cheap, extemporaneous rant of modern demagogues, but in the elaborate and thrice-repeated orations of Demosthenes. No! the noble and elegant arts of Greece grew up in no Augustan age,—enjoyed neither royal nor imperial patronage. Unknown before in the world, strangers on the Nile, and strangers on the Euphrates, they sprang at once into life in a region not unlike our own New England—iron-bound, sterile and free. The imperial astronomers of Chaldæa went up almost to the stars in their observatories; but it was a Greek who first foretold an eclipse, and measured the year. The nations of the East invented the alphabet; but not a line has reached us of profane literature, in any of their languages,—and it is owing to the embalming power of Grecian genius, that the invention itself has been transmitted to the world. The Egyptian architects could erect structures, which, after three thousand five hundred years, are still standing in their uncouth original majesty; but it was only on the barren soil of Attica, that the beautiful columns of the Parthenon and the Theseum could rest, which are standing also. With the decline of liberty in Greece, began the decline of all her letters and all her arts, though her tumultuous democracies were succeeded by liberal and accomplished princes. Compare the literature of the Alexandrian with that of the Periclean age; how cold, pedantic and imitative! Compare,—I will not say, the axes, the eggs, the altars, and the other frigid devices of the pensioned wits in the museum at Alexandria,—but compare their best spirits with those of independent Greece; Callimachus with Pindar, Licophron with Sophocles, Aristophanes of Byzantium with Aristotle, and Apollonius the Rhodian with Homer. When we descend to Rome, to the Augustan age, the exalted era of Mæcenas, we find one uniform work of imitation, often of translation. The choicest geniuses seldom rise beyond a happy transfusion of the Grecian masters. Horace translates Alcæus, Terence translates Menander, Lucretius translates Epicurus, Virgil translates Homer and Cicero—I had almost said, translates Demosthenes and Plato. But the soul of liberty did burst forth from the lips of Cicero; "her form had not yet lost all its original brightness;" her inspiration produced in him the only specimens of a purely original literature, which Rome has transmitted to us. After him, their literary history is written in one line of Tacitus,—*gliscente adulatione, magna ingenia deterrebantur.* The fine arts revived a little under the princes of the Flavian house, but never rose higher than a successful imitation of the waning excellence of Greece. With the princes of this line, the arts of Rome expired; and Constantine the Great was obliged to tear down an arch of Trajan for sculptures, wherewithal to adorn his own. In modern

times, civilized states have multiplied; political institutions have varied in different states, and at different times in the same state; some liberal institutions have existed in the bosom of societies otherwise despotic; and a great addition of new studies has been made to the encyclopædia, which have all been cultivated by great minds, and some of which, as the physical and experimental sciences, have little or no direct connection with the state of liberty. These circumstances perplex, in some degree, the inquiry into the effect of free institutions on intellectual improvement in modern times. There are times and places, where it would seem that the muses, both the gay and the severe, had been transformed into court ladies. Upon the whole, however, the modern history of literature bears but a cold testimony to the genial influence of the governments under which it has grown up. Dante and Petrarch composed their beautiful works in exile; Boccaccio complains, in the most celebrated of his, that he was transfixed with the darts of envy and calumny; Machiavelli was pursued by the party of the Medici for resisting their tyrannical designs; Guicciardini retired in disgust, to compose his history in voluntary exile; Galileo confessed, in the prisons of the inquisition, that the earth did not move; Ariosto lived in poverty; and Tasso died in want and despair.* Cervantes, after he had immortalized himself in his great work, was obliged to write on for bread. The whole French academy was pensioned to crush the great Corneille. Racine, after living to see his finest pieces derided as cold and worthless, died of a broken heart. The divine genius of Shakspeare raised him to no higher rank than that of a subaltern actor in his own, and Ben Jonson's, plays. The immortal Chancellor was sacrificed to the preservation of a worthless minion, and is said (falsely, I trust) to have begged a cup of beer in his old age, and begged it in vain. The most valuable of the pieces of Selden were written in that famous resort of great minds, the tower of London. Milton, surprised by want in his infirm old age, sold the first production of the human mind for five pounds. The great boast of English philosophy was expelled from his place in Oxford, and kept in banishment, "the king having been given to understand," to use the words of lord Sunderland, who ordered the expulsion, "that one Locke has, upon several occasions, behaved himself very factiously against the government." Dryden sacrificed his genius to the spur of immediate want. Otway was choked with a morsel of bread, too ravenously swallowed after a long fast. Johnson was taken to prison for a debt of five shillings; and Burke petitioned for a professorship at Glasgow, and was denied. When we survey these facts, and the innumerable others

* Martinelli, in his edition of the Decamerone, cited in the introduction to Sidney's Discourses on Government, edition of 1751, p. 34.

of which these are not even an adequate specimen, we may, perhaps, conclude that, in whatever way the arbitrary governments of Europe have encouraged letters, it has not been in that of a steady cheering patronage ; we may think there is abundant reason to acknowledge, that the ancient lesson is confirmed by modern experience, and that popular institutions are most propitious to the full and prosperous growth of intellectual excellence.

If the perfectly organized system of liberty, which here prevails, be thus favorable to intellectual progress, various other conditions of our national existence are not less so—particularly the extension of one language, government and character, over so vast a space as the United States of America. Hitherto, in the main, the world has seen but two forms of social existence—free governments in small states, and arbitrary governments in large ones. Though various shades of both have appeared at different times in the world, yet, on the whole, the political ingenuity of man has never found out the mode of extending liberal institutions beyond small districts, or of governing large empires by any other means than the visible demonstration and exercise of absolute power. The effect, in either case, has been unpropitious to the growth of intellectual excellence. Free institutions, though favorable to the growth of intellectual excellence, are not the only thing needed. The wandering savage is free ; but most of the powers of his mind lie dormant, under the severe privations of a barbarous life. An infant colony, on a distant coast, may be free ; but for want of the necessary mental aliment and excitement, may be unable to rise above the limits of material existence. In order, then, that free institutions may have their full and entire effect, in producing the highest attainable degree of intellectual improvement, they require to be established in an extensive region, and over a numerous people. This constitutes a state of society entirely new among men,—a vast empire whose institutions are wholly popular. While we experience the genial influence of those principles, which belong to all free states, and in proportion as they are free, —independence of thought, and the right of expressing it,—we are to feel in this country, we and those who succeed us, all that excitement, which, in various ways, arises from the reciprocal action upon each other of the parts of a great empire. Literature, as has been partly hinted, is the voice of the age and the state. The character, energy and resources of the country, are reflected and imaged forth in the conceptions of its great minds. They are the organs of the time. They speak not their own language, they scarce think their own thoughts ; but, under an impulse like the prophetic enthusiasm of old, they must feel and utter the sentiments which society inspires. They do not create, they obey the spirit of the age,—the serene and beautiful spirit, descended from

the highest heaven of liberty, who laughs at our little preconceptions, and, with the breath of his mouth, sweeps before him the men and the nations that cross his path. By an unconscious instinct, the mind, in the strong action of its powers, adapts itself to the number and complexion of the other minds with which it is to enter into communion or conflict. As the voice falls into the key, which is suited to the space to be filled, the mind, in the various exercises of its creative faculties, strives with curious search for that master-note, which will awaken a vibration from the surrounding community, and which, if it do not find, it is itself too often struck dumb.

For this reason, from the moment in the destiny of nations that they descend from their culminating point and begin to decline, from that moment the voice of creative genius is hushed, and, at best, the age of criticism, learning and imitation succeeds. When Greece ceased to be independent, the forum and the stage became mute. The patronage of Macedonian, Alexandrian and Pergamean princes was lavished in vain. They could not woo the healthy muses of Hellas, from the cold mountain-tops of Greece, to dwell in their gilded halls. Nay, though the fall of greatness, the decay of beauty, the waste of strength, and the wreck of power, have ever been among the favorite themes of the pensive muse, yet not a poet arose in Greece to chant her own elegy; and it is after near three centuries, and from Cicero and Sulpicius, that we catch the first notes of pious and pathetic lamentation over the fallen land of the arts. The freedom and genius of a country are invariably gathered into a common tomb, and there

> "Can only strangers breathe
> The name of that which was beneath."

It is when we reflect on this power of an auspicious future, that we realize the prospect which smiles upon the intellect of America. It may justly be accounted the great peculiarity of ancient days, compared with modern, that in antiquity there was, upon the whole, but one civilized and literary nation at a time in the world. Art and refinement followed in the train of political ascendency, from the East to Greece, and from Greece to Rome. In the modern world, under the influence of various causes, intellectual, political and moral, civilization has been diffused throughout the greater part of Europe and America. Now mark a singular fatality as regards the connection of this enlarged and diffused civilization, with the progress of letters, and the excitement to intellectual exertion in any given state. Instead of one sole country, as in antiquity, where the arts and refinements find a home, there are, in modern Europe, seven or eight equally entitled to the general name of cultivated nations, and in each of which some minds of

the first order have appeared. And yet, by the unfortunate multiplication of languages, an obstacle all but insuperable has been thrown in the way of the free progress of genius, in its triumphant course, from region to region. The muses of Shakspeare and Milton, of Camoens, of Lope de Vega, and Calderon, of Corneille and Racine, of Dante and Tasso, of Gœthe and Schiller, are strangers to each other.

This evil was so keenly felt in the sixteenth and seventeenth centuries, that the Latin language was widely adopted as a dialect common to scholars. We see men like Luther, Calvin and Erasmus, Bacon, Grotius and Thuanus, who could scarce have written a line without exciting the admiration of their contemporaries, driven to the use of a tongue which none but the learned could understand. For the sake of addressing the scholars of other countries, these great men, and others like them, in many of their writings, were obliged to cut themselves off from all sympathy with the mass of those, whom, as patriots, they must have wished most to instruct. In works of pure science and learned criticism, this is of less consequence; for, being independent of sentiment, it matters less how remote from real life the symbols in which their ideas are conveyed. But when we see a writer like Milton, who, more than any other whom England ever produced, was a master of the music of his native tongue,—who, besides all the eloquence of thought and imagery, knew better than any other man how to clothe them, according to his own beautiful expression,

> "In notes, with many a winding bout
> Of linked sweetness, long drawn out,
> With wanton heed and giddy cunning,
> The melting voice through mazes running,
> Untwisting all the chains that tie
> The hidden soul of harmony;"

when we see a master of English eloquence, thus gifted, choosing a dead language, the dialect of the closet, a tongue without an echo from the hearts of the people, as the vehicle of his defence of that people's rights,—asserting the cause of Englishmen in the language, as it may be truly called, of Cicero,—we can only measure the incongruity, by reflecting what Cicero would himself have thought and felt, if called to defend the cause of Roman freedom, not in the language of the Roman citizen, but in that of the Chaldeans or Assyrians, or some people still farther remote in the history of the world. There is little doubt that the prevalence of the Latin language among modern scholars was a great cause not only of the slow progress of letters among the lower ranks, but of the stiffness and constraint formerly visible in the vernacular style of most scholars themselves. That the reformation in religion advanced with such rapidity, is, doubtless, in no small degree,

to be attributed to the translation of the Scriptures, and the use of liturgies in the modern tongues. While the preservation in England of a strange language (I will not sin against the majesty of Rome by calling it Latin) in legal acts, down to so late a period as 1730, may be one cause, that the practical forms of administering justice have not been made to keep pace with the popular views, that have triumphed in other things. With the erection of popular institutions under Cromwell, among various other legal improvements,* very many of which were speedily adopted by our plain-dealing forefathers, the records of the law were ordered to be kept in English; "A novelty," says the learned commentator on the English laws, "which at the restoration was no longer continued, practisers having found it very difficult to express themselves so concisely or significantly in any other language but Latin;"† an argument for the use of that language, whose soundness it must be left to clients to estimate.

Nor are the other remedies more efficacious, which have been attempted for the evil of a multiplicity of tongues. Something is done by translations, and something by the acquisition of foreign languages. But that no effectual transfusion of the higher literature of a country can take place, in the way of translation, is matter of notoriety; and it is a remark of one of the few who could have courage to make such a remark, Madame de Stael, that it is impossible fully to comprehend the literature of a foreign tongue. The general preference given to Young's Night Thoughts and Ossian, over all the other English poets, in many parts of the continent of Europe, seems to confirm the justice of the observation. There is, indeed, an influence of exalted genius coëxtensive with the earth. Something of its power will be felt, in spite of the obstacles of different languages, remote regions, and other times. But its true empire, its lawful sway, are at home and over the hearts of kindred men. A charm, which nothing can borrow, nothing counterfeit, nothing dispense with, resides in the simple sound of our mother tongue. Not analyzed, nor reasoned upon, it unites the earliest associations of life with the maturest conceptions of the understanding. The heart is willing to open all its avenues to the language in which its infantile caprices were soothed; and by the curious efficacy of the principle of association, it is this echo from the feeble dawn of life, which gives to eloquence much of its manly power, and to poetry much of its divine charm. This feeling of the music of our native language is the first intellectual capacity that is developed in children; and when by age or misfortune,

> "The ear is all unstrung,
> Still, still, it loves the lowland tongue."

* See a number of them in Lord Somers' Tracts, vol. i.
† Blackstone's Commentaries, vol. iii. 422.

What a noble prospect is opened in this connection for the circulation of thought and sentiment in our country! Instead of that multiplicity of dialect, by which mental communication and sympathy are cut off in the old world, a continually-expanding realm is opened and opening to American intellect, in the community of our language, throughout the wide-spread settlements of this continent. The enginery of the press will here, for the first time, be brought to bear, with all its mighty power, on the minds and hearts of men, in exchanging intelligence, and circulating opinions, unchecked by the diversity of language, over an empire more extensive than the whole of Europe.

And this community of language, all important as it is, is but a part of the manifold brotherhood, which unites and will unite the growing millions of America. In Europe, the work of international alienation, which begins in diversity of language, is carried on and consummated by diversity of government, institutions, national descent, and national prejudices. In crossing the principal rivers, channels and mountains, in that quarter of the world, you are met, not only by new tongues, but by new forms of government, new associations of ancestry, new and generally hostile objects of national boast and gratulation. While, on the other hand, throughout the vast regions included within the limits of our republic, not only the same language, but the same laws, the same national government, the same republican institutions, and a common ancestral association prevail, and will diffuse themselves. Mankind will here exist, move, and act in a kindred mass, such as was never before congregated on the earth's surface. The necessary consequences of such a cause overpower the imagination. What would be the effect on the intellectual state of Europe, at the present day, were all her nations and tribes amalgamated into one vast empire, speaking the same tongue, united into one political system, and that a free one, and opening one broad, unobstructed pathway for the interchange of thought and feeling, from Lisbon to Archangel! If effects are to bear a constant proportion to their causes; if the energy of thought is to be commensurate with the masses which prompt it, and the masses it must penetrate; if eloquence is to grow in fervor with the weight of the interests it is to plead, and the grandeur of the assemblies it addresses; if efforts rise with the glory that is to crown them; in a word, if the faculties of the human mind, as we firmly believe, are capable of tension and achievement altogether indefinite;

"Nil actum reputans, dum quid superesset agendum,"—

then it is not too much to say, that a new era will open on the intellectual world, in the fulfilment of our country's prospects. By the sovereign efficacy of the partition of powers between the national and state governments, in virtue of which the national

government is relieved from all the odium of internal administration, and the state governments are spared the conflicts of foreign politics, all bounds seem removed from the possible extension of our country, but the geographical limits of the continent. Instead of growing cumbrous, as it increases in size, there never was a moment since the first settlement of Virginia, when the political system of America moved with so firm and bold a step as at the present day. If there is any faith in our country's auspices, this great continent, in no remote futurity, will be filled up with a homogeneous population; with the mightiest kindred people known in history; our language will acquire an extension which no other ever possessed; and the empire of the mind, with nothing to resist its sway, will attain an expansion, of which as yet we can but partly conceive. The vision is too magnificent to be fully borne; a mass of two or three hundred millions, not chained to the oar, like the same number in China, by a brutalizing despotism, but held in their several orbits of nation and state, by the grand representative attraction; bringing to bear on every point the concentrated energy of such a host; calling into competition so many minds; uniting into one great national feeling the hearts of so many freemen; all to be guided, persuaded, moved and swayed, by the master-spirits of the time.

Let me not be told, that this is a chimerical imagination of a future indefinitely removed; let me not hear repeated the ribaldry of an anticipation of "two thousand years"—of a vision that requires for its fulfilment a length of ages beyond the grasp of any reasonable computation. It is the last point of peculiarity in our condition, to which I invite your attention, as affecting the progress of intellect in the country, that it is growing with a rapidity hitherto entirely without example in the world. For the two hundred years of our existence, the population has doubled itself, in periods of less than a quarter of a century. In the infancy of the country, and while our numbers remained within the limits of a youthful colony, a progress so rapid as this, however important in the principle of growth disclosed, was not yet a circumstance strongly to fix the attention. But, arrived at a population of ten millions, it is a fact of the most overpowering interest, that, within less than twenty-five years, these ten millions will have swelled to twenty; that the younger members of this audience will be citizens of the largest civilized state on earth; that in a few years more than one century, the American population will equal the fabulous numbers of the Chinese empire. This rate of increase has already produced the most striking phenomena. A few weeks after the opening of the revolutionary drama at Lexington, the momentous intelligence, that the first blood was spilt, reached a party of hunters beyond the Alleghanies, who had wandered far into the western wilderness. In prophetic commemoration of the glorious

event, they gave the name of Lexington to the spot of their encampment in the woods. That spot is now the capital of a state larger than Massachusetts; it is the seat of a university as fully attended as our venerable *Alma Mater;* nay, more, it is the capital of a state from which, in the language of one of her own citizens, whose eloquence is the ornament of his country, the tide of emigration still farther westward is more fully pouring than from any other in the Union.*

I need not say that this astonishing increase of numbers is by no means the limit and measure of our country's growth. Arts, agriculture, all the great national interests, all the sources of national wealth, are growing in a ratio still more rapid. In our cities the intensest activity is apparent; in the country every spring of prosperity, from the smallest improvement in husbandry to the construction of canals across the continent, is in vigorous action; abroad, our vessels are beating the pathways of the ocean white; on the inland frontier, the nation is journeying on, like a healthy giant, with a pace more like romance than reality.

These facts, and thousands like them, form one of those peculiarities in our country's condition, which will have the most powerful influence on the minds of its children. The population of several states of Europe has reached its term. In some it is declining, in some stationary, and in the most prosperous, under the extraordinary *stimulus* of the last part of the eighteenth century, it doubles itself but about once in seventy-five years. In consequence of this, the process of social transmission is heavy and slow. Men, not adventitiously favored, come late into life, and the best years of existence are exhausted in languishing competition. The man grows up, and, in the stern language of one of their most renowned economists,† finds no cover laid for him at Nature's table. The smallest official provision is a boon, at which great minds are not ashamed to grasp; the assurance of the most frugal subsistence commands the brightest talents and the most laborious studies; poor wages pay for the unremitted labor of the most curious hands; and it is the smallest part of the population only that is within the reach even of these humiliating springs of action. We need not labor to contrast this state of things with the teeming growth and noble expansion of all our institutions and resources. Instead of being shut up, as it were, in the prison of a stationary, or a very slowly progressive community, the emulation of our countrymen is drawn out and tempted on, by a horizon constantly receding before them. New nations of kindred freemen are springing up in successive periods, shorter even than the active portion of the life of man. "While

* Mr. Clay's late speech on Internal Improvement. † Mr. Malthus.

we spend our time," says Burke on this topic, "in deliberating on the mode of governing two millions in America, we shall find we have millions more to manage."* Many individuals are in this house, who were arrived at years of discretion when these words of Burke were uttered, and the two millions, which Great Britain was then to manage, have grown into ten, exceedingly unmanageable. The most affecting view of this subject is, that it puts it in the power of the wise, and good, and great to gather, while they live, the ripest fruits of their labors. Where, in human history, is to be found a contrast like that, which the last fifty years have crowded into the lives of those favored men, who, raising their hands or their voices, when our little bands were led out to the perilous conflict with one of the most powerful empires on earth, have lived to be crowned with the highest honors of the republic which they established? Honor to their gray hairs, and peace and serenity to the evening of their eventful days!

Though it may never again be the fortune of our country to bring within the compass of half a century a contrast so dazzling as this, yet in its grand and steady progress, the career of duty and usefulness will be run by all its children, under a constantly-increasing *stimulus*. The voice, which, in the morning of life, shall awaken the patriotic sympathy of the land, will be echoed back by a community, incalculably swelled in all its proportions, before it shall be hushed in death. The writer, by whom the noble features of our scenery shall be sketched with a glowing pencil, the traits of our romantic early history gathered up with filial zeal, and the peculiarities of our character seized with delicate perception, cannot mount so entirely and rapidly to success, but that ten years will add new millions to the numbers of his readers. The American statesman, the orator, whose voice is already heard in its supremacy, from Florida to Maine, whose intellectual empire already extends beyond the limits of Alexander's, has yet new states and new nations starting into being, the willing tributaries to his sway.

This march of our population westward has been attended with consequences in some degree novel, in the history of the human mind. It is a fact, somewhat difficult of explanation, that the refinement of the ancient nations seemed almost wholly devoid of an elastic and expansive principle. The arts of Greece were enchained to her islands and her coasts; they did not penetrate the interior. The language and literature of Athens were as unknown, to the north of Pindus, at a distance of two hundred miles from the capital of Grecian refinement, as they were in Scythia. Thrace, whose mountain tops may almost be seen from the porch of the temple of Minerva at Sunium, was the proverbial abode

* Speech on Conciliation with America, March 22, 1775.

of barbarism. Though the colonies of Greece were scattered on the coasts of Italy, of France, of Spain, and of Africa, no extension of their population toward the interior took place, and the arts did not penetrate beyond the walls of the cities, where they were cultivated. How different is the picture of the diffusion of the arts and improvement of civilization, from the coast to the interior of America! Population advances westward with a rapidity which numbers may describe indeed, but cannot represent, with any vivacity, to the mind. The wilderness, which one year is impassable, is traversed the next by the caravans of the industrious emigrants, who go to follow the setting sun, with the language, the institutions, and the arts of civilized life. It is not the irruption of wild barbarians, come to visit the wrath of God on a degenerate empire; it is not the inroad of disciplined banditti, marshalled by the intrigues of ministers and kings. It is the human family led out to possess its broad patrimony. The states and nations, which are springing up in the valley of the Missouri, are bound to us by the dearest ties of a common language, a common government, and a common descent. Before New England can look with coldness on their rising myriads, she must forget that some of the best of her own blood is beating in their veins; that her hardy children, with their axes on their shoulders, have been literally among the pioneers in this march of humanity; that young as she is, she has become the mother of populous states. What generous mind would sacrifice to a selfish preservation of local preponderance, the delight of beholding civilized nations rising up in the desert; and the language, the manners, the institutions, to which he has been reared, carried with his household gods to the foot of the Rocky Mountains? Who can forget that this extension of our territorial limits is the extension of the empire of all we hold dear; of our laws, of our character, of the memory of our ancestors, of the great achievements in our history? Whithersoever the sons of the thirteen states shall wander, to southern or western climes, they will send back their hearts to the rocky shores, the battle fields, and the intrepid councils of the Atlantic coast. These are placed beyond the reach of vicissitude. They have become, already, matter of history, of poetry, of eloquence:

> "The love, where death has set his seal,
> Nor age can chill, nor rival steal,
> Nor falsehood disavow."

Divisions may spring up, ill blood arise, parties be formed, and interests may seem to clash; but the great bonds of the nation are linked to what is past. The deeds of the great men, to whom this country owes its origin and growth, are a patrimony, I know,

of which its children will never deprive themselves. As long as the Mississippi and the Missouri shall flow, those men and those deeds will be remembered on their banks. The sceptre of government may go where it will; but that of patriotic feeling can never depart from Judah. In all that mighty region, which is drained by the Missouri and its tributary streams (the valley coextensive with the temperate zone), will there be, as long as the name of America shall last, a father, that will not take his children on his knee, and recount to them the events of the twentieth of December, the nineteenth of April, the seventeenth of June, and the fourth of July?

This, then, is the theatre on which the intellect of America is to appear, and such the motives to its exertion; such the mass to be influenced by its energies, such the crowd to witness its efforts, such the glory to crown its success. If I err, in this happy vision of my country's fortunes, I thank God for an error so animating. If this be false, may I never know the truth. Never may you, my friends, be under any other feeling, than that a great, a growing, an immeasurably expanding country, is calling upon you for your best services. The name and character of your *Alma Mater* have already been carried, by some of our brethren, thousands of miles from her venerable walls; and thousands of miles still farther westward, the communities of kindred men are fast gathering, whose minds and hearts will act in sympathy with yours.

The most powerful motives call on us, as scholars, for those efforts, which our common country demands of all her children. Most of us are of that class, who owe whatever of knowledge has shone into our minds, to the free and popular institutions of our native land. There are few of us who may not be permitted to boast, that we have been reared in an honest poverty or a frugal competence, and owe every thing to those means of education which are equally open to all. We are summoned to new energy and zeal by the high nature of the experiment we are appointed in Providence to make, and the grandeur of the theatre on which it is to be performed. When the old world afforded no longer any hope, it pleased Heaven to open this last refuge of humanity. The attempt has begun, and is going on, far from foreign corruption, on the broadest scale, and under the most benignant auspices; and it certainly rests with us to solve the great problem in human society — to settle, and that forever, the momentous question—whether mankind can be trusted with a purely popular system? One might almost think, without extravagance, that the departed wise and good, of all places and times, are looking down from their happy seats to witness what shall now be done by us; that they who lavished their treasures and their blood of old, who labored and suffered, who spake and wrote, who fought and perished, in

the one great cause of freedom and truth, are now hanging, from their orbs on high, over the last solemn experiment of humanity. As I have wandered over the spots, once the scene of their labors, and mused among the prostrate columns of their senate-houses and forums, I have seemed almost to hear a voice from the tombs of departed ages; from the sepulchres of the nations which died before the sight. They exhort us, they adjure us, to be faithful to our trust. They implore us, by the long trials of struggling humanity—by the blessed memory of the departed—by the dear faith which has been plighted, by pure hands, to the holy cause of truth and man—by the awful secrets of the prison-houses, where the sons of freedom have been immured—by the noble heads which have been brought to the block—by the wrecks of time, by the eloquent ruins of nations, they conjure us not to quench the light which is rising on the world. Greece cries to us, by the convulsed lips of her poisoned, dying Demosthenes; and Rome pleads with us in the mute persuasion of her mangled Tully. They address us, each and all, in the glorious language of Milton, to one who might have canonized his memory in the hearts of the friends of liberty, but who did most shamefully betray the cause: "Reverere tantam de te expectationem, spem patriæ de te unicam. Reverere vultus et vulnera tot fortium virorum, quotquot pro libertate tam strenue decertarunt, manes etiam eorum qui in ipso certamine occubuerunt. Reverere exterarum quoque civitatum existimationem de te atque sermones;—quantas res de libertate nostra tam fortiter parta, de nostra republica tam gloriose exorta sibi polliceantur; quæ si tam cito quasi aborta evanuerit, profecto nihil æque dedecorosum huic genti atque periculosum fuerit."*

Yes, my friends, such is the exhortation which calls on us to exert our powers, to employ our time, and consecrate our labors, in the cause of our native land. When we engage in that solemn study, the history of our race,—when we survey the progress of man, from his cradle in the east to these last limits of his wandering,—when we behold him forever flying westward from civil and religious thraldom, bearing his household gods over mountains and seas, seeking rest and finding none, but still pursuing the flying bow of promise to the glittering hills which it spans in Hesperian climes, we cannot but exclaim with Bishop Berkeley, the generous prelate of England, who bestowed his benefactions, as well as blessings, on our country,

> "Westward the star of empire takes its way;
> The four first acts already past,
> The fifth shall close the drama with the day;
> Time's noblest offspring is the last."

* Milton's Defensio Secunda.

In that high romance, if romance it be, in which the great minds of antiquity sketched the fortunes of the ages to come, they pictured to themselves a favored region beyond the ocean, a land of equal laws and happy men. The primitive poets beheld it in the islands of the blest; the Doric bards fancied it in the hyperborean regions; the sage of the academy placed it in the lost Atlantis; and even the sterner spirit of Seneca could discern a fairer abode of humanity, in distant regions then unknown. We look back upon these uninspired predictions, and almost recoil from the obligation they imply. By us must these fair visions be realized; by us must be fulfilled these high promises, which burst in trying hours from the longing hearts of the champions of truth. There are no more continents or worlds to be revealed. Atlantis hath arisen from the ocean; the farthest Thule is reached; there are no more retreats beyond the sea, no more discoveries, no more hopes. Here, then, a mighty work is to be fulfilled, or never, by the race of mortals. The man, who looks with tenderness on the sufferings of good men in other times; the descendant of the pilgrims, who cherishes the memory of his fathers; the patriot, who feels an honest glow at the majesty of the system of which he is a member; the scholar, who beholds with rapture the long-sealed book of unprejudiced truth opened for all to read,—these are they by whom these auspices are to be accomplished. Yes, brethren, it is by the intellect of the country, that the mighty mass is to be inspired; that its parts are to communicate and sympathize, its bright progress to be adorned with becoming refinements, its strong sense uttered, its character reflected, its feelings interpreted to its own children, to other regions, and to after-ages.

Meantime, the years are rapidly passing away, and gathering importance in their course. With the present year will be completed the half century from that most important era in human history, the commencement of our revolutionary war. The jubilee of our national existence is at hand. The space of time that has elapsed from that momentous date, has laid down in the dust, which the blood of many of them had already hallowed, most of the great men to whom, under Providence, we owe our national existence and privileges. A few still survive among us, to reap the rich fruits of their labors and sufferings; and one* has yielded himself to the united voice of a people, and returned, in his age, to receive the gratitude of the nation, to whom he devoted his youth. It is recorded on the pages of American history, that when this friend of our country applied to our commissioners at Paris, in 1776, for a passage in the first ship they should despatch to

* General La Fayette, who was present at the delivery of this oration.

America, they were obliged to answer him (so low and abject was then our dear native land), that they possessed not the means nor the credit sufficient for providing a single vessel in all the ports of France. "Then," exclaimed the youthful hero, "I will provide my own;" and it is a literal fact, that, when all America was too poor to offer him so much as a passage to our shores, he left, in his tender youth, the bosom of home, of happiness, of wealth, of rank, to plunge in the dust and blood of our inauspicious struggle.

Welcome, friend of our fathers, to our shores! Happy are our eyes that behold those venerable features. Enjoy a triumph, such as never conqueror or monarch enjoyed—the assurance that, throughout America, there is not a bosom, which does not beat with joy and gratitude at the sound of your name. You have already met and saluted, or will soon meet, the few that remain of the ardent patriots, prudent counsellors, and brave warriors, with whom you were associated in achieving our liberty. But you have looked round in vain for the faces of many who would have lived years of pleasure on a day like this, with their old companion in arms and brother in peril. Lincoln, and Greene, and Knox, and Hamilton, are gone; the heroes of Saratoga and Yorktown have fallen before the only foe they could not meet. Above all, the first of heroes and of men, the friend of your youth, the more than friend of his country, rests in the bosom of the soil he redeemed. On the banks of his Potomac, he lies in glory and peace. You will revisit the hospitable shades of Mount Vernon; but him whom you venerated as we did, you will not meet at its door. His voice of consolation, which reached you in the Austrian dungeons, cannot now break its silence to bid you welcome to his own roof. But the grateful children of America will bid you welcome, in his name. Welcome, thrice welcome to our shores; and whithersoever throughout the limits of the continent your course shall take you, the ear that hears you shall bless you, the eye that sees you shall bear witness to you, and every tongue exclaim, with heartfelt joy, Welcome, welcome, La Fayette!

AN ADDRESS,

DELIVERED AT THE LAYING OF

THE CORNER-STONE OF THE BUNKER HILL MONUMENT,

JUNE 17, 1825.

BY DANIEL WEBSTER.

This uncounted multitude before me, and around me, proves the feeling which the occasion has excited. These thousands of human faces, glowing with sympathy and joy, and, from the impulses of a common gratitude, turned reverently to heaven, in this spacious temple of the firmament, proclaim that the day, the place, and the purpose of our assembling, have made a deep impression on our hearts.

If, indeed, there be any thing in local association fit to affect the mind of man, we need not strive to repress the emotions which agitate us here. We are among the sepulchres of our fathers. We are on ground distinguished by their valor, their constancy, and the shedding of their blood. We are here, not to fix an uncertain date in our annals, nor to draw into notice an obscure and unknown spot. If our humble purpose had never been conceived, if we ourselves had never been born, the 17th of June, 1775, would have been a day on which all subsequent history would have poured its light, and the eminence where we stand, a point of attraction to the eyes of successive generations. But we are Americans. We live in what may be called the early age of this great continent; and we know that our posterity, through all time, are here to suffer and enjoy the allotments of humanity. We see before us a probable train of great events; we know that our own fortunes have been happily cast; and it is natural, therefore, that we should be moved by the contemplation of occurrences which have guided our destiny before many of us were born, and settled the condition in which we should pass that portion of our existence, which God allows to men on earth.

We do not read even of the discovery of this continent without feeling something of a personal interest in the event; without being reminded how much it has affected our own fortunes, and our own existence. It is more impossible for us, therefore, than for others, to contemplate with unaffected minds that interesting, I may say, that most touching and pathetic, scene, when the great discoverer

of America stood on the deck of his shattered bark, the shades of night falling on the sea, yet no man sleeping—tossed on the billows of an unknown ocean, yet the stronger billows of alternate hope and despair tossing his own troubled thoughts—extending forward his harassed frame, straining westward his anxious and eager eyes, till Heaven at last granted him a moment of rapture and ecstasy, in blessing his vision with the sight of the unknown world.

Nearer to our times, more closely connected with our fates, and therefore still more interesting to our feelings and affections, is the settlement of our own country by colonists from England. We cherish every memorial of these worthy ancestors; we celebrate their patience and fortitude; we admire their daring enterprise; we teach our children to venerate their piety; and we are justly proud of being descended from men who have set the world an example of founding civil institutions on the great and united principles of human freedom and human knowledge. To us, their children, the story of their labors and sufferings can never be without its interest. We shall not stand unmoved on the shore of Plymouth, while the sea continues to wash it; nor will our brethren in another early and ancient colony, forget the place of its first establishment, till their river shall cease to flow by it. No vigor of youth, no maturity of manhood, will lead the nation to forget the spots where its infancy was cradled and defended.

But the great event in the history of the continent, which we are now met here to commemorate,—that prodigy of modern times, at once the wonder and the blessing of the world,—is the American revolution. In a day of extraordinary prosperity and happiness, of high national honor, distinction and power, we are brought together, in this place, by our love of country, by our admiration of exalted character, by our gratitude for signal services and patriotic devotion.

The society, whose organ I am, was formed for the purpose of rearing some honorable and durable monument to the memory of the early friends of American independence. They have thought that, for this subject, no time could be more propitious than the present prosperous and peaceful period; that no place could claim preference over this memorable spot; and that no day could be more auspicious to the undertaking, than the anniversary of the battle which was here fought. The foundation of that monument we have now laid. With solemnities suited to the occasion, with prayers to Almighty God for his blessing; and in the midst of this cloud of witnesses, we have begun the work. We trust it will be prosecuted,—and that, springing from a broad foundation, rising high in massive solidity and unadorned grandeur, it may remain, as long as Heaven permits the work of man to last, a fit emblem, both of the events in memory of which it is raised, and of the gratitude of those who have reared it.

We know, indeed, that the record of illustrious actions is most safely deposited in the universal remembrance of mankind. We know, that if we could cause this structure to ascend, not only till it reached the skies, but till it pierced them, its broad surfaces could still contain but part of that, which, in an age of knowledge, hath already been spread over the earth, and which history charges itself with making known to all future times. We know, that no inscription on entablatures less broad than the earth itself, can carry information of the events we commemorate, where it has not already gone; and that no structure, which shall not outlive the duration of letters and knowledge among men, can prolong the memorial. But our object is, by this edifice to show our own deep sense of the value and importance of the achievements of our ancestors; and, by presenting this work of gratitude to the eye, to keep alive similar sentiments, and to foster a constant regard for the principles of the revolution. Human beings are composed not of reason only, but of imagination also, and sentiment; and that is neither wasted nor misapplied which is appropriated to the purpose of giving right direction to sentiments, and opening proper springs of feeling in the heart. Let it not be supposed that our object is to perpetuate national hostility, or even to cherish a mere military spirit. It is higher, purer, nobler. We consecrate our work to the spirit of national independence, and we wish that the light of peace may rest upon it forever. We rear a memorial of our conviction of that unmeasured benefit, which has been conferred on our own land, and of the happy influences, which have been produced, by the same events, on the general interests of mankind. We come, as Americans, to mark a spot, which must forever be dear to us and our posterity. We wish that whosoever, in all coming time, shall turn his eye hither, may behold that the place is not undistinguished, where the first great battle of the revolution was fought. We wish that this structure may proclaim the magnitude and importance of that event, to every class and every age. We wish that infancy may learn the purpose of its erection from maternal lips, and that weary and withered age may behold it, and be solaced by the recollections which it suggests. We wish that labor may look up here, and be proud, in the midst of its toil. We wish that, in those days of disaster, which, as they come on all nations, must be expected to come on us also, desponding patriotism may turn its eyes hitherward, and be assured that the foundations of our national power still stand strong. We wish that this column, rising towards heaven among the pointed spires of so many temples dedicated to God, may contribute also to produce, in all minds, a pious feeling of dependence and gratitude. We wish, finally, that the last object on the sight of him who leaves his native shore, and the first to gladden his who revisits it, may be something which shall remind him of the liberty and the

glory of his country. Let it rise, till it meet the sun in his coming; let the earliest light of the morning gild it, and parting day linger and play on its summit.

We live in a most extraordinary age. Events so various and so important, that they might crowd and distinguish centuries, are, in our times, compressed within the compass of a single life. When has it happened that history has had so much to record, in the same term of years, as since the 17th of June, 1775? Our own revolution, which, under other circumstances, might itself have been expected to occasion a war of half a century, has been achieved; twenty-four sovereign and independent states erected; and a general government established over them, so safe, so wise, so free, so practical, that we might well wonder its establishment should have been accomplished so soon, were it not far the greater wonder that it should have been established at all. Two or three millions of people have been augmented to twelve; and the great forests of the west prostrated beneath the arm of successful industry; and the dwellers on the banks of the Ohio and the Mississippi become the fellow-citizens and neighbors of those who cultivate the hills of New England. We have a commerce that leaves no sea unexplored; navies which take no law from superior force; revenues adequate to all the exigencies of government, almost without taxation; and peace with all nations, founded on equal rights and mutual respect.

Europe, within the same period, has been agitated by a mighty revolution, which, while it has been felt in the individual condition and happiness of almost every man, has shaken to the centre her political fabric, and dashed against one another thrones which had stood tranquil for ages. On this, our continent, our own example has been followed; and colonies have sprung up to be nations. Unaccustomed sounds of liberty and free government have reached us from beyond the track of the sun; and at this moment the dominion of European power, in this continent, from the place where we stand to the south pole, is annihilated forever.

In the mean time, both in Europe and America, such has been the general progress of knowledge; such the improvements in legislation, in commerce, in the arts, in letters, and above all, in liberal ideas, and the general spirit of the age, that the whole world seems changed.

Yet, notwithstanding that this is but a faint abstract of the things which have happened since the day of the battle of Bunker Hill, we are but fifty years removed from it; and we now stand here, to enjoy all the blessings of our own condition, and to look abroad on the brightened prospects of the world, while we hold still among us some of those, who were active agents in the scenes of 1775, and who are now here, from every quarter of New England, to visit, once more, and under circumstances so affecting, I

had almost said so overwhelming, this renowned theatre of their courage and patriotism.

Venerable men! you have come down to us, from a former generation. Heaven has bounteously lengthened out your lives, that you might behold this joyous day. You are now where you stood fifty years ago, this very hour, with your brothers, and your neighbors, shoulder to shoulder, in the strife for your country. Behold, how altered! The same heavens are indeed over your heads; the same ocean rolls at your feet; but all else, how changed! You hear now no roar of hostile cannon, you see no mixed volumes of smoke and flame rising from burning Charlestown. The ground strewed with the dead and the dying; the impetuous charge; the steady and successful repulse; the loud call to repeated assault; the summoning of all that is manly to repeated resistance; a thousand bosoms freely and fearlessly bared in an instant to whatever of terror there may be in war and death;—all these you have witnessed, but you witness them no more. All is peace. The heights of yonder metropolis, its towers and roofs, which you then saw filled with wives and children and countrymen in distress and terror, and looking with unutterable emotions for the issue of the combat, have presented you to-day with the sight of its whole happy population, come out to welcome and greet you with a universal jubilee. Yonder proud ships, by a felicity of position appropriately lying at the foot of this mount, and seeming fondly to cling around it, are not means of annoyance to you, but your country's own means of distinction and defence. All is peace; and God has granted you this sight of your country's happiness, ere you slumber in the grave forever. He has allowed you to behold and to partake the reward of your patriotic toils; and he has allowed us, your sons and countrymen, to meet you here, and in the name of the present generation, in the name of your country, in the name of liberty, to thank you!

But, alas! you are not all here! Time and the sword have thinned your ranks. Prescott, Putnam, Stark, Brooks, Read, Pomeroy, Bridge! our eyes seek for you in vain amidst this broken band. You are gathered to your fathers, and live only to your country in her grateful remembrance, and your own bright example. But let us not too much grieve that you have met the common fate of men. You lived, at least, long enough to know that your work had been nobly and successfully accomplished. You lived to see your country's independence established, and to sheathe your swords from war. On the light of Liberty you saw arise the light of Peace, like

> "another morn,
> Risen on mid-noon;"—

and the sky, on which you closed your eyes, was cloudless

But—ah!—him! the first great martyr in this great cause! him! the premature victim of his own self-devoting heart! him! the head of our civil councils, and the destined leader of our military bands; whom nothing brought hither but the unquenchable fire of his own spirit; him! cut off by Providence, in the hour of overwhelming anxiety and thick gloom; falling ere he saw the star of his country rise; pouring out his generous blood, like water, before he knew whether it would fertilize a land of freedom or of bondage! how shall I struggle with the emotions that stifle the utterance of thy name!—Our poor work may perish; but thine shall endure! This monument may moulder away; the solid ground it rests upon may sink down to a level with the sea; but thy memory shall not fail! Wheresoever among men a heart shall be found, that beats to the transports of patriotism and liberty, its aspirations shall be to claim kindred with thy spirit!

But the scene amidst which we stand does not permit us to confine our thoughts or our sympathies to those fearless spirits, who hazarded or lost their lives on this consecrated spot. We have the happiness to rejoice here in the presence of a most worthy representation of the survivors of the whole revolutionary army.

Veterans! you are the remnant of many a well-fought field. You bring with you marks of honor from Trenton and Monmouth, from Yorktown, Camden, Bennington and Saratoga. Veterans of half a century! when, in your youthful days, you put every thing at hazard in your country's cause, good as that cause was, and sanguine as youth is, still your fondest hopes did not stretch onward to an hour like this! At a period to which you could not reasonably have expected to arrive; at a moment of national prosperity, such as you could never have foreseen, you are now met, here, to enjoy the fellowship of old soldiers, and to receive the overflowings of a universal gratitude.

But your agitated countenances and your heaving breasts inform me, that even this is not an unmixed joy. I perceive that a tumult of contending feelings rushes upon you. The images of the dead, as well as the persons of the living, throng to your embraces. The scene overwhelms you, and I turn from it. May the Father of all mercies smile upon your declining years, and bless them! And when you shall here have exchanged your embraces; when you shall once more have pressed the hands which have been so often extended to give succor in adversity, or grasped in the exultation of victory; then look abroad into this lovely land, which your young valor defended, and mark the happiness with which it is filled; yea, look abroad into the whole earth, and see what a name you have contributed to give to your country, and what a praise you have added to freedom, and then rejoice in the sympathy and gratitude which beam upon your last days from the improved condition of mankind.

The occasion does not require of me any particular account of the battle of the 17th of June, nor any detailed narrative of the events which immediately preceded it. These are familiarly known to all. In the progress of the great and interesting controversy, Massachusetts and the town of Boston had become early and marked objects of the displeasure of the British parliament. This had been manifested, in the act for altering the government of the province, and in that for shutting up the port of Boston. Nothing sheds more honor on our early history, and nothing better shows how little the feelings and sentiments of the colonies were known or regarded in England, than the impression which these measures every where produced in America. It had been anticipated, that while the other colonies would be terrified by the severity of the punishment inflicted on Massachusetts, the other seaports would be governed by a mere spirit of gain; and that, as Boston was now cut off from all commerce, the unexpected advantage, which this blow on her was calculated to confer on other towns, would be greedily enjoyed. How miserably such reasoners deceived themselves! How little they knew of the depth, and the strength, and the intenseness of that feeling of resistance to illegal acts of power, which possessed the whole American people! Every where the unworthy boon was rejected with scorn. The fortunate occasion was seized, every where, to show to the whole world, that the colonies were swayed by no local interest, no partial interest, no selfish interest. The temptation to profit by the punishment of Boston was strongest to our neighbors of Salem. Yet Salem was precisely the place where this miserable proffer was spurned, in a tone of the most lofty self-respect, and the most indignant patriotism. "We are deeply affected," said its inhabitants, "with the sense of our public calamities; but the miseries that are now rapidly hastening on our brethren in the capital of the province, greatly excite our commiseration. By shutting up the port of Boston, some imagine that the course of trade might be turned hither and to our benefit. But we must be dead to every idea of justice, lost to all feelings of humanity, could we indulge a thought to seize on wealth, and raise our fortunes on the ruin of our suffering neighbors." These noble sentiments were not confined to our immediate vicinity. In that day of general affection and brotherhood, the blow given to Boston, smote on every patriotic heart from one end of the country to the other. Virginia and the Carolinas, as well as Connecticut and New Hampshire, felt and proclaimed the cause to be their own. The continental congress, then holding its first session in Philadelphia, expressed its sympathy for the suffering inhabitants of Boston; and addresses were received from all quarters, assuring them that the cause was a common one, and should be met by

common efforts and common sacrifices. The congress of Massachusetts responded to these assurances,—and in an address to the congress at Philadelphia, bearing the official signature, perhaps among the last, of the immortal Warren, notwithstanding the severity of its suffering and the magnitude of the dangers which threatened it, it was declared, that this colony "is ready, at all times, to spend and to be spent in the cause of America."

But the hour drew nigh, which was to put professions to the proof, and to determine whether the authors of these mutual pledges were ready to seal them in blood. The tidings of Lexington and Concord had no sooner spread, than it was universally felt that the time was at last come for action. A spirit pervaded all ranks, not transient, not boisterous, but deep, solemn, determined,

"totamque infusa per artus
Mens agitat molem, et magno se corpore miscet."

War, on their own soil and at their own doors, was, indeed, a strange work to the yeomanry of New England. But their consciences were convinced of its necessity, their country called them to it, and they did not withhold themselves from the perilous trial. The ordinary occupations of life were abandoned. The plough was stayed in the unfinished furrow; wives gave up their husbands, and mothers gave up their sons, to the battles of a civil war. Death might come, in honor, on the field; it might come, in disgrace, on the scaffold. For either and for both they were prepared. The sentiment of Quincy was full in their hearts. "Blandishments," said that distinguished son of genius and patriotism, "will not fascinate us, nor will threats of a halter intimidate; for, under God, we are determined that wheresoever, whensoever, or howsoever we shall be called to make our exit, we will die free men."

The 17th of June saw the four New England colonies standing here, side by side, to triumph or to fall together; and there was with them, from that moment to the end of the war, what, I hope, will remain with them forever, one cause, one country, one heart.

The battle of Bunker Hill was attended with the most important effects, beyond its immediate result as a military engagement. It created, at once, a state of open, public war. There could now be no longer a question of proceeding against individuals as guilty of treason or rebellion. That fearful crisis was past. The appeal now lay to the sword,—and the only question was, whether the spirit and the resources of the people would hold out, till the object should be accomplished. Nor were its general consequences confined to our own country. The previous proceedings of the colonies, their appeals, resolutions, and addresses, had made their cause known to Europe. Without boasting, we may say that, in

no age or country, has the public cause been maintained with more force of argument, more power of illustration, or more of that persuasion which excited feeling and elevated principle can alone bestow, than the revolutionary state-papers exhibit. These papers will forever deserve to be studied, not only for the spirit which they breathe, but for the ability with which they were written.

To this able vindication of their cause, the colonies had now added a practical and severe proof of their own true devotion to it, and evidence also of the power which they could bring to its support. All now saw, that, if America fell, she would not fall without a struggle. Men felt sympathy and regard, as well as surprise, when they beheld these infant states, remote, unknown, unaided, encounter the power of England, and, in the first considerable battle, leave more of their enemies dead on the field, in proportion to the number of combatants, than they had recently known in the wars of Europe.

Information of these events circulating through Europe, at length reached the ears of one who now hears me. He has not forgotten the emotion which the fame of Bunker Hill, and the name of Warren, excited in his youthful breast.

Sir, we are assembled to commemorate the establishment of great public principles of liberty, and to do honor to the distinguished dead. The occasion is too severe for eulogy to the living. But, sir, your interesting relation to this country, the peculiar circumstances which surround you and surround us, call on me to express the happiness which we derive from your presence and aid in this solemn commemoration.

Fortunate, fortunate man! with what measure of devotion will you not thank God for the circumstances of your extraordinary life! You are connected with both hemispheres and with two generations. Heaven saw fit to ordain, that the electric spark of liberty should be conducted, through you, from the new world to the old; and we, who are now here to perform this duty of patriotism, have all of us long ago received it in charge from our fathers to cherish your name and your virtues. You will account it an instance of your good fortune, sir, that you crossed the seas to visit us at a time which enables you to be present at this solemnity. You now behold the field, the renown of which reached you in the heart of France, and caused a thrill in your ardent bosom. You see the lines of the little redoubt thrown up by the incredible diligence of Prescott; defended, to the last extremity, by his lion-hearted valor; and within which the corner-stone of our monument has now taken its position. You see where Warren fell, and where Parker, Gardner, McCleary, Moore, and other early patriots, fell with him. Those who survived that day, and whose lives have been prolonged to the present hour, are now around you. Some

of them you have known in the trying scenes of the war. Behold! they now stretch forth their feeble arms to embrace you. Behold! they raise their trembling voices to invoke the blessing of God on you, and yours, forever.

Sir, you have assisted us in laying the foundation of this edifice. You have heard us rehearse, with our feeble commendation, the names of departed patriots. Sir, monuments and eulogy belong to the dead. We give them, this day, to Warren and his associates. On other occasions, they have been given to your more immediate companions in arms,—to Washington, to Greene, to Gates, Sullivan, and Lincoln. Sir, we have become reluctant to grant these, our highest and last honors, further. We would gladly hold them yet back from the little remnant of that immortal band. *Serus in cœlum redeas.* Illustrious as are your merits, yet far, oh, very far distant be the day, when any inscription shall bear your name, or any tongue pronounce its eulogy!

The leading reflection to which this occasion seems to invite us, respects the great changes which have happened in the fifty years since the battle of Bunker Hill was fought. And it peculiarly marks the character of the present age, that, in looking at these changes, and in estimating their effect on our condition, we are obliged to consider, not what has been done in our own country only, but in others also. In these interesting times, while nations are making separate and individual advances in improvement, they make, too, a common progress; like vessels on a common tide, propelled by the gales at different rates, according to their several structure and management, but all moved forward by one mighty current beneath, strong enough to bear onward whatever does not sink beneath it.

A chief distinction of the present day is a community of opinions and knowledge amongst men, in different nations, existing in a degree heretofore unknown. Knowledge has, in our time, triumphed, and is triumphing, over distance, over difference of languages, over diversity of habits, over prejudice, and over bigotry. The civilized and Christian world is fast learning the great lesson, that difference of nation does not imply necessary hostility, and that all contact need not be war. The whole world is becoming a common field for intellect to act in. Energy of mind, genius, power, wheresoever it exists, may speak out in any tongue, and the world will hear it. A great chord of sentiment and feeling runs through two continents, and vibrates over both. Every breeze wafts intelligence from country to country; every wave rolls it; all give it forth, and all in turn receive it. There is a vast commerce of ideas. There are marts and exchanges for intellectual discoveries, and a wonderful fellowship of those individual intelligences which make up the mind and opinion of the age. Mind is the great

lever of all things; human thought is the process by which human ends are ultimately answered; and the diffusion of knowledge, so astonishing in the last half century, has rendered innumerable minds, variously gifted by nature, competent to be competitors, or fellow-workers, on the theatre of intellectual operation.

From these causes, important improvements have taken place in the personal condition of individuals. Generally speaking, mankind are not only better fed, and better clothed, but they are able also to enjoy more leisure; they possess more refinement and more self-respect. A superior tone of education, manners, and habits, prevails. This remark, most true in its application to our own country, is also partly true when applied elsewhere. It is proved by the vastly-augmented consumption of those articles of manufacture and of commerce which contribute to the comforts and the decencies of life; an augmentation which has far outrun the progress of population. And while the unexampled and almost incredible use of machinery would seem to supply the place of labor, labor still finds its occupation and its reward; so wisely has Providence adjusted men's wants and desires to their condition and their capacity.

Any adequate survey, however, of the progress made in the last half century in the polite and the mechanic arts, in machinery and manufactures, in commerce and agriculture, in letters and in science, would require volumes. I must abstain wholly from these subjects, and turn, for a moment, to the contemplation of what has been done on the great question of politics and government. This is the master topic of the age; and during the whole fifty years it has intensely occupied the thoughts of men. The nature of civil government, its ends and uses, have been canvassed and investigated; ancient opinions attacked and defended; new ideas recommended and resisted, by whatever power the mind of man could bring to the controversy. From the closet and the public halls, the debate has been transferred to the field; and the world has been shaken by wars of unexampled magnitude, and the greatest variety of fortune. A day of peace has at length succeeded; and now that the strife has subsided, and the smoke cleared away, we may begin to see what has actually been done, permanently changing the state and condition of human society. And without dwelling on particular circumstances, it is most apparent that, from the beforementioned causes of augmented knowledge and improved individual condition, a real, substantial, and important change has taken place, and is taking place, greatly beneficial, on the whole, to human liberty and human happiness.

The great wheel of political revolution began to move in America. Here its rotation was guarded, regular, and safe. Transferred to the other continent, from unfortunate, but natural, causes, it received an irregular and violent impulse; it whirled along with a

fearful celerity, till, at length, like the chariot-wheels in the races of antiquity, it took fire from the rapidity of its own motion, and blazed onward, spreading conflagration and terror around.

We learn, from the result of this experiment, how fortunate was our own condition, and how admirably the character of our people was calculated for making the great example of popular governments. The possession of power did not turn the heads of the American people, for they had long been in the habit of exercising a great portion of self-control. Although the paramount authority of the parent state existed over them, yet a large field of legislation had always been open to our colonial assemblies. They were accustomed to representative bodies and the forms of free government; they understood the doctrine of the division of power among different branches, and the necessity of checks on each. The character of our countrymen, moreover, was sober, moral, and religious; and there was little in the change to shock their feelings of justice and humanity, or even to disturb an honest prejudice. We had no domestic throne to overturn, no privileged orders to cast down, no violent changes of property to encounter. In the American revolution, no man sought or wished for more than to defend and enjoy his own. None hoped for plunder or for spoil. Rapacity was unknown to it; the axe was not among the instruments of its accomplishment; and we all know that it could not have lived a single day under any well-founded imputation of possessing a tendency adverse to the Christian religion.

It need not surprise us, that, under circumstances less auspicious, political revolutions elsewhere, even when well intended, have terminated differently. It is, indeed, a great achievement—it is the master-work of the world—to establish governments entirely popular, on lasting foundations; nor is it easy, indeed, to introduce the popular principle at all into governments to which it has been altogether a stranger. It cannot be doubted, however, that Europe has come out of the contest in which she has been so long engaged, with greatly superior knowledge, and, in many respects, a highly improved condition. Whatever benefit has been acquired, is likely to be retained, for it consists mainly in the acquisition of more enlightened ideas. And although kingdoms and provinces may be wrested from the hands that hold them, in the same manner they were obtained; although ordinary and vulgar power may, in human affairs, be lost as it has been won; yet it is the glorious prerogative of the empire of knowledge, that what it gains it never loses. On the contrary, it increases by the multiple of its own power; all its ends become means; all its attainments, helps to new conquests. Its whole abundant harvest is but so much seed wheat, and nothing has ascertained, and nothing can ascertain, the amount of ultimate product.

Under the influence of this rapidly-increasing knowledge, the people have begun, in all forms of government, to think and to reason on affairs of state. Regarding government as an institution for the public good, they demand a knowledge of its operations, and a participation in its exercise. A call for the representative system, wherever it is not enjoyed, and where there is already intelligence enough to estimate its value, is perseveringly made. Where men may speak out, they demand it ; where the bayonet is at their throats, they pray for it.

When Louis XIV. said, "I am the state," he expressed the essence of the doctrine of unlimited power. By the rules of that system, the people are disconnected from the state ; they are its subjects,—it is their lord. These ideas, founded in the love of power, and long supported by the excess and the abuse of it, are yielding, in our age, to other opinions ; and the civilized world seems at last to be proceeding to the conviction of that fundamental and manifest truth, that the powers of government are but a trust, and that they cannot be lawfully exercised but for the good of the community. As knowledge is more and more extended, this conviction becomes more and more general. Knowledge, in truth, is the great sun in the firmament. Life and power are scattered with all its beams. The prayer of the Grecian combatant, when enveloped in unnatural clouds and darkness, is the appropriate political supplication for the people of every country not yet blessed with free institutions :—

> "Dispel this cloud ; the light of heaven restore ;
> Give me TO SEE—and Ajax asks no more."

We may hope that the growing influence of enlightened sentiments will promote the permanent peace of the world. Wars, to maintain family alliances, to uphold or to cast down dynasties, to regulate successions to thrones, which have occupied so much room in the history of modern times, if not less likely to happen at all, will be less likely to become general, and involve many nations, as the great principle shall be more and more established, that the interest of the world is peace, and its first great statute, that every nation possesses the power of establishing a government for itself. But public opinion has attained also an influence over governments which do not admit the popular principle into their organization. A necessary respect for the judgment of the world operates, in some measure, as a control over the most unlimited forms of authority. It is owing, perhaps, to this truth, that the interesting struggle of the Greeks has been suffered to go on so long, without a direct interference, either to wrest that country from its present masters, and add it to other powers, or to execute the system of pacification by force, and, with united strength, lay the neck of

Christian and civilized Greece at the foot of the barbarian Turk. Let us thank God that we live in an age when something has influence besides the bayonet, and when the sternest authority does not venture to encounter the scorching power of public reproach. Any attempt of the kind I have mentioned, should be met by one universal burst of indignation; the air of the civilized world ought to be made too warm to be comfortably breathed by any who would hazard it.

It is, indeed, a touching reflection, that while, in the fulness of our country's happiness, we rear this monument to her honor, we look for instruction in our undertaking to a country which is now in fearful contest, not for works of art or memorials of glory, but for her own existence. Let her be assured that she is not forgotten in the world; that her efforts are applauded, and that constant prayers ascend for her success. And let us cherish a confident hope for her final triumph. If the true spark of religious and civil liberty be kindled, it will burn. Human agency cannot extinguish it. Like the earth's central fire, it may be smothered for a time; the ocean may overwhelm it; mountains may press it down; but its inherent and unconquerable force will heave both the ocean and the land, and at some time or another, in some place or another, the volcano will break out and flame up to heaven.

Among the great events of the half century, we must reckon, certainly, the revolution of South America; and we are not likely to overrate the importance of that revolution, either to the people of the country itself, or to the rest of the world. The late Spanish colonies, now independent states, under circumstances less favorable, doubtless, than attended our own revolution, have yet successfully commenced their national existence. They have accomplished the great object of establishing their independence; they are known and acknowledged in the world; and although, in regard to their systems of government, their sentiments on religious toleration, and their provisions for public instruction, they may have yet much to learn, it must be admitted that they have risen to the condition of settled and established states more rapidly than could have been reasonably anticipated. They already furnish an exhilarating example of the difference between free governments and despotic misrule. Their commerce, at this moment, creates a new activity in all the great marts of the world. They show themselves able, by an exchange of commodities, to bear a useful part in the intercourse of nations. A new spirit of enterprise and industry begins to prevail; all the great interests of society receive a salutary impulse; and the progress of information not only testifies to an improved condition, but constitutes, itself, the highest and most essential improvement.

When the battle of Bunker Hill was fought, the existence of

South America was scarcely felt in the civilized world. The thirteen little colonies of North America habitually called themselves the "Continent." Borne down by colonial subjugation, monopoly, and bigotry, these vast regions of the south were hardly visible above the horizon. But, in our day, there hath been, as it were, a new creation. The southern hemisphere emerges from the sea. Its lofty mountains begin to lift themselves into the light of heaven; its broad and fertile plains stretch out in beauty to the eye of civilized man, and, at the mighty being of the voice of political liberty, the waters of darkness retire.

And, now, let us indulge an honest exultation in the conviction of the benefit which the example of our country has produced, and is likely to produce, on human freedom and human happiness. And let us endeavor to comprehend, in all its magnitude, and to feel, in all its importance, the part assigned to us in the great drama of human affairs. We are placed at the head of the system of representative and popular governments. Thus far, our example shows that such governments are compatible, not only with respectability and power, but with repose, with peace, with security of personal rights, with good laws, and a just administration.

We are not propagandists. Wherever other systems are preferred, either as being thought better in themselves, or as better suited to existing condition, we leave the preference to be enjoyed. Our history hitherto proves, however, that the popular form is practicable, and that, with wisdom and knowledge, men may govern themselves ; and the duty incumbent on us is, to preserve the consistency of this cheering example, and take care that nothing may weaken its authority with the world. If, in our case, the representative system ultimately fail, popular governments must be pronounced impossible. No combination of circumstances more favorable to the experiment can ever be expected to occur. The last hopes of mankind, therefore, rest with us ; and if it should be proclaimed, that our example had become an argument against the experiment, the knell of popular liberty would be sounded throughout the earth.

These are excitements to duty ; but they are not suggestions of doubt. Our history and our condition, all that is gone before us, and all that surrounds us, authorize the belief, that popular governments, though subject to occasional variations, perhaps not always for the better, in form, may yet, in their general character, be as durable and permanent as other systems. We know, indeed, that, in our country, any other is impossible. The principle of free governments adheres to the American soil. It is bedded in it—immovable as its mountains.

And let the sacred obligations which have devolved on this generation, and on us, sink deep into our hearts. Those are daily

dropping from among us, who established our liberty and our government. The great trust now descends to new hands. Let us apply ourselves to that which is presented to us, as our appropriate object. We can win no laurels in a war for independence. Earlier and worthier hands have gathered them all. Nor are there places for us by the side of Solon, and Alfred, and other founders of states. Our fathers have filled them. But there remains to us a great duty of defence and preservation; and there is opened to us, also, a noble pursuit, to which the spirit of the times strongly invites us. Our proper business is improvement. Let our age be the age of improvement. In a day of peace, let us advance the arts of peace and the works of peace. Let us develop the resources of our land, call forth its powers, build up its institutions, promote all its great interests, and see whether we also, in our day and generation, may not perform something worthy to be remembered. Let us cultivate a true spirit of union and harmony. In pursuing the great objects which our condition points out to us, let us act under a settled conviction, and an habitual feeling, that these twenty-four states are one country. Let our conceptions be enlarged to the circle of our duties. Let us extend our ideas over the whole of the vast field in which we are called to act. Let our object be, our country, our whole country, and nothing but our country. And, by the blessing of God, may that country itself become a vast and splendid monument, not of oppression and terror, but of wisdom, of peace, and of liberty, upon which the world may gaze, with admiration, forever.

AN ORATION,

DELIVERED

AT CAMBRIDGE, ON THE FIFTIETH ANNIVERSARY

OF

THE DECLARATION OF THE INDEPENDENCE OF THE UNITED STATES OF AMERICA.

By EDWARD EVERETT.

Fellow Citizens,

It belongs to us, with strong propriety, to celebrate this day The town of Cambridge, and the county of Middlesex, are filled with the vestiges of the revolution; whithersoever we turn our eyes, we behold some memento of its glorious scenes. Within the walls, in which we are now assembled, was convened the first provincial congress, after its adjournment at Concord. The rural magazine at Medford reminds us of one of the earliest acts of British aggression. The march of both divisions of the royal army, on the memorable nineteenth of April, was through the limits of Cambridge; in the neighboring towns of Lexington and Concord, the first blood of the revolution was shed; in West Cambridge, the royal convoy of provisions was, the same day, gallantly surprised by the aged citizens, who staid to protect their homes, while their sons pursued the foe. Here the first American army was formed; from this place, on the seventeenth of June, was detached the Spartan band, that immortalized the heights of Charlestown, and consecrated that day, with blood and fire, to the cause of American liberty. Beneath the venerable elm, which still shades the south-western corner of the common, General Washington first unsheathed his sword at the head of an American army, and to that seat * was wont every Sunday to repair, to join in the supplications which were made for the welfare of his country.

How changed is now the scene! The foe is gone! The din and the desolation of war are passed; science has long resumed her station in the shades of our venerable university, no longer

* The first wall pew, on the right hand of the pulpit.

glittering with arms; the anxious war-council is no longer in session, to offer a reward for the discovery of the best mode of making saltpetre,—an unpromising stage of hostilities, when an army of twenty thousand men is in the field in front of the foe; the tall grass now waves in the trampled sally-port of some of the rural redoubts, that form a part of the simple lines of circumvallation, within which a half-armed American militia held the flower of the British army blockaded: the plough has done, what the English batteries could not do,—has levelled others of them with the earth; and the men, the great and good men, their warfare is over, and they have gone quietly down to the dust they redeemed from oppression.

At the close of a half century, since the declaration of our independence, we are assembled to commemorate that great and happy event. We come together, not because it needs, but because it deserves these acts of celebration. We do not meet each other, and exchange our felicitations, because we should otherwise fall into forgetfulness of this auspicious era, but because we owe it to our fathers and to our children, to mark its return with grateful festivities. The major part of this assembly is composed of those who had not yet engaged in the active scenes of life when the revolution commenced. We come not to applaud our own work, but to pay a filial tribute to the deeds of our fathers. It was for their children that the heroes and sages of the revolution labored and bled. They were too wise not to know, that it was not personally their own cause in which they were embarked; they felt that they were engaging in an enterprise which an entire generation must be too short to bring to its mature and perfect issue. The most they could promise themselves was, that, having cast forth the seed of liberty; having shielded its tender germ from the stern blasts that beat upon it; having watered it with the tears of waiting eyes, and the blood of brave hearts,—their children might gather the fruit of its branches, while those who planted it should moulder in peace beneath its shade.

Nor was it only in this, that we discern their disinterestedness, their heroic forgetfulness of self. Not only was the independence, for which they struggled, a great and arduous adventure, of which they were to encounter the risk, and others to enjoy the benefits; but the oppressions, which roused them, had assumed, in their day, no worse form than that of a pernicious principle. No intolerable acts of oppression had ground them to the dust. They were not slaves rising in desperation from beneath the agonies of the lash; but free men, snuffing from afar "the tainted gale of tyranny." The worst encroachments, on which the British ministry had ventured, might have been borne, consistently with the practical enjoyment of many of the advantages resulting from good government.

On the score of calculation alone, that generation had much better have paid the duties on glass, painters' colors, stamped paper, and tea, than have plunged into the expenses of the revolutionary war. But they thought not of shuffling off upon posterity the burden of resistance. They well understood the part which Providence had assigned to them. They perceived that they were called to discharge a high and perilous office to the cause of freedom; that their hands were elected to strike the blow, for which near two centuries of preparation—never remitted, though often unconscious—had been making, on one side or the other, of the Atlantic. They felt that the colonies had now reached that stage in their growth, when the difficult problem of colonial government must be solved; difficult, I call it, for such it is, to the statesman, whose mind is not sufficiently enlarged for the idea, that a wise colonial government must naturally and rightfully end in independence; that even a mild and prudent sway, on the part of the mother country, furnishes no reason for not severing the bands of the colonial subjection; and that when the rising state has passed the period of adolescence, the only alternative which remains, is that of a peaceable separation, or a convulsive rupture.

The British ministry, at that time weaker than it had ever been since the infatuated reign of James II., had no knowledge of political science, but that which they derived from the text of official records. They drew their maxims, as it was happily said of one of them, that he did his measures, from the file. They heard that a distant province had resisted the execution of an act of parliament. Indeed! and what is the specific, in cases of resistance? —a military force;—and two more regiments are ordered to Boston. Again they hear, that the General Court of Massachusetts Bay has taken counsels subversive of the allegiance due to the crown. A case of a refractory corporation;—what is to be done? First try a *mandamus;* and if that fails, seize the franchises into his majesty's hands. They never asked the great questions, whether nations, like man, have not the principles of growth; whether Providence has assigned no laws to regulate the changes in the condition of that most astonishing of human things, a nation of kindred men. They did not inquire, I will not say whether it were rightful and expedient, but whether it were practicable to give law across the Atlantic, to a people who possessed within themselves every imaginable element of self-government;—a people rocked in the cradle of liberty, brought up to hardship, inheriting nothing but their rights on earth, and their hopes in heaven.

But though the rulers of Britain appear not to have caught a glimpse of the great principles involved in these questions, our fathers had asked and answered them. They perceived, with the rapidity of intuition, that the hour of separation had come; because

a principle was assumed by the British government, which put an instantaneous check to the further growth of liberty. Either the race of civilized man happily planted on our shores, at first slowly and painfully reared, but at length auspiciously multiplying in America, is destined never to constitute a free and independent state; or these measures must be resisted, which go to bind it in a mild but abject colonial vassalage. Either the hope must be forever abandoned, the hope that had been brightening and kindling toward assurance, like the glowing skies of the morning,—the hope that a new centre of civilization was to be planted on the new continent, at which the social and political institutions of the world may be brought to the standard of reason and truth, after thousands of years of degeneracy,—either this hope must be abandoned, and forever, or the battle was now to be fought, first in the political assemblies, and then, if need be, in the field.

In the halls of legislation, scarcely can it be said that the battle was fought. A spectacle, indeed, seemed to be promised to the civilized world, of breathless interest and uncalculated consequence. "You are placed," said the provincial congress of Massachusetts, in their address to the inhabitants, of December 4th, 1774,—an address promulgated at the close of a session held in this very house where we are now convened,—"You are placed by Providence in a post of honor, because it is a post of danger; and while struggling for the noblest objects, the liberties of our country, the happiness of posterity, and the rights of human nature, the eyes, not only of North America and the whole British empire, but of all Europe, are upon you." * A mighty question of political right was at issue between the two hemispheres. Europe and America, in the face of mankind, are going to plead the great cause on which the fate of popular government forever is suspended. One circumstance, and one alone, exists, to diminish the interest of the contention—the perilous inequality of the parties; an inequality far exceeding that which gives animation to a contest; and so great as to destroy the hope of an ably-waged encounter. On the one side were arrayed the two houses of the British parliament, the modern school of political eloquence, the arena where great minds had for a century and a half strenuously wrestled themselves into strength and power, and in better days the common and upright chancery of an empire, on which the sun never set. Upon the other side rose up the colonial assemblies of Massachusetts and Virginia, and the continental congress of Philadelphia, composed of men whose training had been within a small provincial circuit; who had never before felt the inspiration which the consciousness of a station before the world imparts; who brought no power into

* Massachusetts State Papers, p. 416.

the contest but that which they drew from their cause and their bosoms. It is by champions like these, that the great principles of representative government, of chartered rights, and constitutional liberty, are to be discussed; and surely never, in the annals of national controversy, was exhibited a triumph so complete of the seemingly weaker party, a rout so disastrous of the stronger. Often as it has been repeated, it will bear another repetition; it never ought to be omitted in the history of constitutional liberty; it ought especially to be repeated this day;—the various addresses, petitions, and appeals, the correspondence, the resolutions, the legislative and popular debates, from 1764, to the declaration of independence, present a maturity of political wisdom, a strength of argument, a gravity of style, a manly eloquence, and a moral courage, of which unquestionably the modern world affords no other example. This meed of praise, substantially accorded at the time by Chatham, in the British parliament, may well be repeated by us. For most of the venerated men to whom it is paid, it is but a pious tribute to departed worth. The Lees and the Henries, Otis, Quincy, Warren, and Samuel Adams, the men who spoke those words of thrilling power, which raised and ruled the storm of resistance, and rang like the voice of fate across the Atlantic, are beyond the reach of our praise. To most of them it was granted to witness some of the fruits of their labors; such fruit as revolutions do not often bear. Others departed at an untimely hour, or nobly fell in the onset; too soon for their country, too soon for liberty, too soon for every thing but their own undying fame. But all are not gone; some still survive among us; the favored, enviable men, to hail the jubilee of the independence they declared. Go back, fellow-citizens, to that day, when Jefferson and Adams composed the sub-committee who reported the declaration of independence. Think of the mingled sensations of that proud but anxious day, compared to the joy of this. What honor, what crown, what treasure, could the world and all its kingdoms afford, compared with the honor and happiness of having been united in that commission, and living to see its most wavering hopes turned into glorious reality. Venerable men! you have outlived the dark days which followed your more than heroic deed; you have outlived your own strenuous contention, who should stand first among the people whose liberty you vindicated. You have lived to bear to each other the respect which the nation bears to you both; and each has been so happy as to exchange the honorable name of the leader of a party, for that more honorable one, the Father of his Country. While this our tribute of respect, on the jubilee of our independence, is paid to the gray hairs of the venerable survivor in our neighborhood; let it not less heartily be sped to him whose hand traced the lines

of that sacred charter, which, to the end of time, has made this day illustrious. And is an empty profession of respect all that we owe to the man who can show the original draft of the declaration of the independence of the United States of America, in his own handwriting? Ought not a title-deed like this to become the acquisition of the nation? Ought it not to be laid up in the archives of the people? Ought not the price, at which it is bought, to be the ease and comfort of the old age of him who drew it? Ought not he, who, at the age of thirty, declared the independence of his country, at the age of eighty, to be secured by his country in the enjoyment of his own?

Nor let us forget, on the return of this eventful day, the men, who, when the conflict of counsel was over, stood forward in that of arms. Yet let me not, by faintly endeavoring to sketch, do deep injustice to the story of their exploits. The efforts of a life would scarce suffice to paint out this picture, in all its astonishing incidents, in all its mingled colors of sublimity and woe, of agony and triumph. But the age of commemoration is at hand. The voice of our fathers' blood begins to cry to us, from beneath the soil which it moistened. Time is bringing forward, in their proper relief, the men and the deeds of that high-souled day. The generation of contemporary worthies is gone; the crowd of the unsignalized great and good disappears; and the leaders in war as well as council, are seen, in Fancy's eye, to take their stations on the mount of Remembrance. They come from the embattled cliffs of Abraham; they start from the heaving sods of Bunker's hill; they gather from the blazing lines of Saratoga and Yorktown, from the blood-dyed waters of the Brandywine, from the dreary snows of Valley Forge, and all the hard-fought fields of the war. With all their wounds and all their honors, they rise and plead with us, for their brethren who survive; and bid us, if indeed we cherish the memory of those who bled in our cause, to show our gratitude, not by sounding words, but by stretching out the strong arm of the country's prosperity, to help the veteran survivors gently down to their graves.

But it is time to turn from sentiments on which it is unavailing to dwell. The fiftieth return of this all-important day appears to enjoin on us to reassert the principles of the declaration of independence. Have we met, fellow-citizens, to commemorate merely the successful termination of a war? Certainly not; the war of 1756 was, in its duration, nearly equal, and signalized in America by the most brilliant achievements of the provincial arms. But no one would attempt to prevent that war, with all its glorious incidents, from gradually sinking into the shadows which time throws back on the deeds of men. Do we celebrate the anniversary of

our independence, merely because a vast region was severed from an European empire, and established a government for itself?—Scarcely even this: the acquisition of Louisiana, a region larger than the old United States,—the almost instantaneous conversion of a vast Spanish colonial waste into free and prosperous members of our republican federation (the whole effected by a single happy exercise of the treaty-making power),—this is an event, in nature not wholly unlike, in importance not infinitely beneath, the separation of the colonies from England, regarded merely as an historical transaction. But no one thinks of commemorating with festivals the anniversary of this cession. Perhaps not ten who hear me recollect the date of the treaty by which it was effected; although it is, unquestionably, the most important occurrence in our history since the declaration of independence, and will render the administration of Mr. Jefferson memorable as long as our republic shall endure.

But it is not merely, nor chiefly, the military success, nor the political event, which we commemorate on these patriotic anniversaries. It is to mistake the principle of our celebration to speak of its object either as a trite theme, or as one among other important and astonishing incidents of the same kind in the world. The declaration of the independence of the United States of America, considered, on the one hand, as the consummation of a long train of measures and counsels, preparatory, even though unconsciously, of this event,—and, on the other hand, as the foundation of the systems of government which have happily been established in our beloved country,—deserves commemoration as the most important event, humanly speaking, in the history of the world; as forming the era from which the establishment of government on a rightful foundation is destined universally to date. Looking upon the declaration of independence as the one prominent event which is to represent the American system (and history will so look upon it), I deem it right in itself and seasonable this day to assert, that, while all other political revolutions, reforms, and improvements have been, in various ways, of the nature of palliatives and alleviations of systems essentially and irremediably vicious, this alone is the great discovery in political science,—the Newtonian theory of government, toward which the minds of all honest and sagacious statesmen in other times had strained, but without success,—the practical fulfilment of all the theories of political perfection, which had amused the speculations and eluded the grasp of every former period and people. And although assuredly this festive hour affords but little scope for dry disquisition, and shall not be engrossed by me with abstract speculation, yet I shall not think I wander from the duties of the day, in dwelling briefly on the chain of ideas by which we reach this great conclusion.

The political organization of a people is, of all matters of temporal concernment, the most important. Drawn together into that great assemblage which we call a nation, by the social principle, some mode of organization must exist among men; and on that organization depends, more directly, more collectively, more permanently than on any thing else, the condition of the individual members that make up the community. On the political organization in which a people shall for generations have been reared, it mainly depends, whether we shall behold, in one of the brethren of the human family, the New Hollander, making a nauseous meal from the worms which he extracts from a piece of rotten wood,* or the African, cutting out the under jaw of his captive, to be strung on a wire, as a trophy of victory, while the mangled wretch is left to bleed to death on the field of battle;† or whether we shall behold him social, civilized, Christian,—scarcely faded from that perfect image, in which, at the divine purpose, "Let us make man,"

> " —— in beauty clad,
> With health in every vein,
> And reason throned upon his brow,
> Stepped forth immortal man."

I am certainly aware, that between the individuals that compose a nation, and the nation as an organized body, there are action and reaction;—that, if political institutions affect the individual, individuals are sometimes gifted with power, and seize on opportunities most essentially to modify institutions. Nor am I at all disposed to agitate the scholastic question, which was first, in the order of nature or time, men forming governments, or governments determining the condition of men. But, having long acted and reacted upon each other, it needs no argument to prove, that political institutions get to be infinitely the most important agent in fixing the condition of individuals, and even in determining in what manner and to what extent individual capacity shall be exerted, and individual character formed. While other causes do unquestionably operate (some of them, such as national descent, physical race, climate, and geographical position, very powerfully), yet of none of them is the effect constant, uniform and prompt;—while, I believe, it is impossible to point out an important change in the political organization of people,—a change by which it has been rendered more or less favorable to liberty,—without discovering a correspondent effect on their prosperity.

Such is the infinite importance to the nations of men of the political organization which prevails among them. The most momentous practical question, therefore, of course, is, in what way a

* Malthus's Essay on Population, vol. i. p. 33, Amer. ed.
† Edwards's History of the West Indies, vol. ii. p. 68, 3d ed.

people shall determine the political organization under which it will live ; or, in still broader terms, what is a right foundation of government. Till the establishment of the American constitutions, this question had received but one answer in the world,—I mean, but one which obtained for any length of time and among any numerous people,—and that answer was, force. The right of the strongest was the only footing on which the governments of the ancient and modern nations were in fact placed ; and the only effort of the theorists was, to disguise the simple and somewhat startling doctrine of the right of the strongest, by various mystical or popular fictions, which in no degree altered its real nature. Of these, the only two worthy to detain us, on the present occasion, are those of the two great English political parties, the whigs and the tories, as they are called,—by names not unlike, in dignity and significance, to the doctrines which are designated by them. The tories taught that the only foundation of government was "divine right;" and this is the same notion which is still inculcated on the continent of Europe, though the delicate ears of the age are flattered by the somewhat milder term, legitimacy. The whigs maintained that the foundation of government was an "original contract;" but of this contract the existing organization was the record and the evidence, and the obligation was perpetually binding. It may deserve the passing remark, therefore, that in reality the doctrine of the whigs in England is a little less liberal than that of the tories. To say that the will of God is the warrant by which the king and his hereditary counsellors govern the land, is, to be sure, in a practical sense, what the illustrious sage of the revolution, surviving in our neighborhood, dared, as early as 1765, to pronounce it—"dark ribaldry." But, in a merely speculative sense, it may without offence be said, that government, like every thing else, subsists by the divine will ; and in this acceptation, there is a certain elevation and unction in the sentiment. But to say, that the form of government is matter of original compact with the people,—that my ancestors, ages ago, agreed that they and their posterity, to the end of time, should give up to a certain line of princes the rule of the state,—that no right remains of revising this compact,—that nothing but extreme necessity (a necessity which it is treasonable even to attempt to define beforehand), justifies a departure from this compact, in which no provision is made that the will of the majority should be done, but the contrary,—a doctrine like this, as it seems to me, while it is in substance as servile as the other, has the disadvantage of affecting a liberality not borne out by the truth.

And now, fellow-citizens, I think I speak the words of truth and soberness, without color or exaggeration, when I say, that before the establishment of our American constitutions, this tory doctrine

of the divine right was the most common, and this whig doctrine of the original contract was professedly the most liberal doctrine, ever maintained by any political party in any powerful state. I do not mean, that in some of the little Grecian republics, during their short-lived noon of liberty and glory, nothing better was practised, —nor that, in other times and places, speculative politicians had not, in their closets, dreamed of a better foundation of government. But I do mean, that, whereas the whigs in England are the party of politicians who have enjoyed, by general consent, the credit of inculcating a more liberal system, this precious notion of the compact is the extent to which their liberality went.

It is plain, whichever of these solemn phrases—"divine right" or "original compact"—we may prefer to use, that the right of the strongest lies at the foundation of both, in the same way and to the same degree. The doctrine of the divine right gives to the ruler authority to sustain himself against the people, not merely because resistance is unlawful, but because it is sacrilegious. The doctrine of the compact denounces every attempted change in the person of the prince as a breach of faith, and, as such, also not only treasonable but immoral! When a conflict ensues, force alone, of course, decides which party shall prevail ; and when force has so decided, all the sanctions of the divine will and of the social compact, revive in favor of the successful party. Even the statute legislation of England, although somewhat coy of unveiling the chaste mysteries of the common law, allows the successful usurper to claim the allegiance of the subject, in as full a manner as it could be done by a lawful sovereign.

Nothing is wanting to fill up this sketch of other governments, but to consider what is the form in which force is exercised to sustain them ; and this is that of a standing army,—at this moment the chief support of every government on earth, except our own. As popular violence—the unrestrained and irresistible force of the mass of men, long oppressed and late awakened, and bursting in its wrath all barriers of law and humanity—is, unhappily, the usual instrument by which the intolerable abuses of a corrupt government are removed, so the same blind force of the same fearful multitude, designedly kept in ignorance both of their duty and their privileges as citizens, employed in a form somewhat different indeed, but far more dreadful—that of a mercenary standing army—is the instrument by which corrupt governments are sustained. The deplorable scenes which marked the earlier stages of the French revolution, have called the attention of this age to the fearful effects of popular violence ; and the minds of men have recoiled at the dismay which leads the van, and the desolation which marks the progress, of an infuriated mob. But the power of the mob is transient. The rising sun most commonly scatters its mistrustful ranks:

the difficulty of subsistence drives its members asunder ; and it is only while it exists in mass that it is terrible. But there is a form in which the mob is indeed portentous,—when to its native terrors it adds the force of a frightful permanence,—when, by a regular organization, its strength is so curiously divided, and, by a strict discipline, its parts are so easily combined, that each and every portion of it carries in its presence the strength and terror of the whole,—and when, instead of that want of concert which renders the common mob incapable of arduous enterprises, it is despotically swayed by a single master-mind, and may be moved in array across the globe.

I remember to have seen the two kinds of mob brought into direct collision. I was present at the second great meeting of the populace of London, in 1819, in the midst of a crowd of I know not how many thousands, but assuredly a vast multitude, which was gathered together in Smithfield market. The universal distress, as you recollect, was extreme. It was a short time after the scenes at Manchester, at which men's minds were ulcerated. Deaths by starvation were said not to be rare ; ruin by the stagnation of business was general ; and some were already brooding over the dark project of assassinating the ministers, which was, not long after, matured by Thistlewood and his associates,—some of whom, on the day to which I allude, harangued this excited, desperate, starving assemblage. When I considered the state of feeling prevailing in the multitude around me,—when I looked in their lowering faces, heard their deep, indignant exclamations, reflected on the physical force concentrated (probably that of thirty or forty thousand able-bodied men), and added to all this, that they were assembled to exercise an undoubted privilege of British citizens,—I did suppose that any small number of troops, who should attempt to interrupt them, would be immolated on the spot. While I was musing on these things, and turning in my mind the common-places on the terrors of a mob, a trumpet was heard to sound an uncertain, but a harsh and clamorous, blast. I looked that the surrounding stalls should have furnished the unarmed multitude at least with that weapon, with which Virginius sacrificed his daughter to the liberty of Rome. I looked that the flying pavement should begin to darken the air. Another blast is heard ; a cry of "The horse-guards!" ran through the assembled thousands ; the orators on the platform were struck mute ; and the whole of that mighty host of starving, desperate men incontinently took to their heels ; in which, I must confess (feeling no vocation, in that cause, to be faithful found among the faithless), I did myself join them. We had run through the Old Bailey, and reached Ludgate hill, before we found out that we had been put to flight by a single mischievous tool of power, who had come triumphing down the opposite street, on horseback, blowing a stage-coachman's horn !

We have heard of those midnight scenes of desolation, when the populace of some overgrown capital, exhausted by the extremity of political oppression, or famishing at the gates of luxurious palaces, or kindled by some transport of fanatical zeal, rushes out to find the victims of its fury,—the lurid glare of torches, casting their gleams on faces dark with rage,—the ominous din of the alarm-bell, striking with affright on the broken visions of the sleepers,—the horrid yells, the thrilling screams, the multitudinous roar of the living storm, as it sweeps onward to its objects. But oh, the disciplined, the paid, the honored mob!—not moving in rags and starvation to some act of blood or plunder, but marching, in all the pomp and circumstance of war, to lay waste a feebler state, or cantoned at home among an overawed and broken-spirited people! I have read of granaries plundered, of castles sacked, and their inmates cruelly murdered, by the ruthless hands of the mob. I have read of friendly states ravaged, governments overturned, tyrannies founded and upheld, proscriptions executed, fruitful regions turned into trampled deserts, the tide of civilization thrown back, and a line of generations cursed, by a well-organized system of military force.

Such was the foundation, in theory and in practice, of all the governments which can be considered as having had a permanent existence in the world before the revolution in this country. There are, certainly, shades of difference between the Oriental despotisms, ancient and modern, the military empire of Rome, the feudal sovereignties of the middle ages, and the legitimate monarchies of the present day. Some were and are more, and some less, susceptible of melioration in practice; and of all of them it might, perhaps, be said,—being all in essence bad,—

"That which is best administered, is best."

In no one of these governments, nor in any government, was the truth admitted, that the only just foundation of all government is the will of the people. If it ever occurred to the practical or theoretical politician, that such an idea deserved examination, the experiment was thought to have been made in the republics of Greece, and to have failed, as fail it certainly did, from the physical impossibility of conducting the business of the state by the actual intervention of every citizen. Such a plan of government must of course fail, if for no other reason, at least for this, that it would prevent the citizen from pursuing his own business, which it is the object of all government to enable him to do. It was considered then as settled, that the citizens, each and all, could not be the government; some one or more must discharge its duties for them. Who shall do this?—how shall they be designated?

The first king was a fortunate soldier, and the first nobleman was one of his generals,—and government has passed by descent

to their posterity, with no other interruption than has taken place when some new soldier of fortune has broken in upon this line of succession, in favor of himself and of his generals. The people have passed for nothing in the plan ; and whenever it has occurred to a busy genius to put the question, By what right government is thus exercised and transmitted ; the common answer has been, By divine right ; while, in times of rare illumination, men have been consoled with the assurance, that such was the original contract.

But a brighter day and a better dispensation were in reserve. The founders of the feudal system, barbarous, arbitrary and despotic as they were, and profoundly ignorant of political science, were animated themselves with a spirit of personal liberty ; out of which, after ages of conflict, grew up a species of popular representation. In the eye of the feudal system, the king was the first baron, and, standing within his own sphere, each other baron was as good as the first. From this important relation, in which the feudal lords of England claimed to stand to their prince, arose the practice of their being consulted by him, in great and difficult conjunctures of affairs ; and hence the coöperation of a grand council (subsequently convened in two houses, under the name of parliament), in making the laws and administering the government. The formation of this body has proved a great step in the progress of popular rights. Its influence has been decisive in breaking the charm of absolute monarchy, and giving to a body, partially eligible by the people, a share in the government. It has also operated most auspiciously on liberty, by exhibiting to the world, on the theatre of a conspicuous nation, a living example, that in proportion as the rights and interests of a people are represented in a government, in that degree the state becomes strong and prosperous. Thus far the science and the practice of government had gone in England, and here it had come to a stand. An equal representation, even in the house of commons, was unthought of,—or thought of only as one of the exploded abominations of Cromwell. It is asserted by Mr. Hume, writing about the middle of the last century, and weighing this subject with equal moderation and sagacity, that "the tide has run long and with some rapidity to the side of popular government, and is just beginning to turn toward monarchy." And he maintains that the British constitution is, though slowly, yet gradually verging toward an absolute government.*

Such was the state of political science, when the independence of our country was declared, and its constitutions organized on the basis of that declaration. The precedents in favor of a popular

* Hume's Essays, vol. I.

system were substantially these,—the short-lived prosperity of the republics of Greece, where each citizen took part in the conduct of affairs, and the admission into the British government of one branch of the legislature nominally elective, and operating, rather by opinion than power, as a partial check on the other branches. What lights these precedents gave them, our fathers had: beyond this, they owed every thing to their own wisdom and courage, in daring to carry out and apply to the executive branch of the government that system of delegated power, of which the elements existed in their own provincial assemblies. They assumed, at once, not as a matter to be reached by argumentation, but as the dictate of unaided reason,—as an axiom too obvious to be discussed, though never in practice applied,—that where the state is too large to be governed by an actual assembly of all the citizens, the people shall elect those who will act for them, in making the laws and administering the government. They, therefore, laid the basis of their constitutions in a proportionate delegation of power from every part of the community; and, regarding the declaration of our independence as the true era of our institutions, we are authorized to assert, that from that era dates the establishment of the only perfect organization of government; that of a representative republic, administered by persons freely chosen by the people.

This plan of government is, therefore, in its theory, perfect; and in its operation it is perfect also; that is to say, no measure of policy, public or private, domestic or foreign, can long be pursued against the will of a majority of the people. Farther than this the wisdom of government cannot go. The majority of the people may err. Man, collectively as well as individually, is man still; but whom can you more safely trust than the majority of the people?—who is so likely to be right, always right, and altogether right, as the collective majority of a great nation, represented in all its interests and pursuits, and in all its communities?

Thus has been solved the great problem in human affairs; and a frame of government, perfect in its principles, has been brought down from the airy regions of Utopia, and has found "a local habitation and a name" in our country. Henceforward we have only to strive that the practical operation of our systems may be true to their spirit and theory. Henceforth it may be said of us—what never could have been said of any people, since the world began—be our sufferings what they will, no one can attribute them to our frame of government; no one can point out a principle in our political systems, of which he has had reason to complain; no one can sigh for a change in his country's institutions, as a boon to be desired for himself or for his children. There is not an apparent defect in our constitutions which could be removed without introducing a greater one; nor a real evil, whose removal would

not be rather a nearer approach to the principles on which they are founded, than a departure from them.

And what, fellow-citizens, are to be the fruits, to us and to the world, of the establishment of this perfect system of government? I might partly answer the inquiry, by reminding you what have been the fruits to us and to the world; by inviting you to compare our beloved country, as it is, in extent of settlement, in numbers and resources, in the useful and ornamental arts, in the abundance of the common blessings of life, in the general standard of character, in the means of education, in the institutions for social objects, in the various great industrious interests, in public strength and national respectability, with what it was, in all these respects, fifty years ago. But the limits of this occasion will not allow us to engage in such an enumeration; and it will be amply sufficient for us to contemplate, in its principle, the beneficial operation on society of the form of government bequeathed to us by our fathers. This principle is, equality,—the equal enjoyment by every citizen of the rights and privileges of the social union.

The principle of all other governments is monopoly, exclusion, favor. They secure great privileges to a small number, and necessarily at the expense of all the rest of the citizens.

In the keen conflict of minds which preceded and accompanied the political convulsions of the last generation, the first principles of society were canvassed with a boldness and power before unknown in Europe; and, from the great principle that all men are equal, it was, for the first time, triumphantly inferred, as a necessary consequence, that the will of a majority of the people is the rule of government. To meet these doctrines, so appalling in their tendency to the existing institutions of Europe, new ground was also taken by the champions of those institutions, and particularly by a man whose genius, eloquence, and integrity gave a currency, which nothing else could have given, to his splendid paradoxes. In one of his renowned productions,* this great man,—for great, almost beyond rivalry, even in his errors, most assuredly he was,—in order to meet the inference, drawn from the equality of man, that the will of the majority must be the rule of government, has undertaken, as he says, "to fix, with some degree of distinctness, an idea of what it is we mean when we say the *people*;" and in fulfilment of this design, he lays it down, "that, in a state of rude nature, there is no such thing as a people. A number of men, in themselves, can have no collective capacity. The idea of a people is the idea of a corporation: it is wholly artificial, and made, like all other legal fictions, by common agreement."

* The Appeal from the New to the Old Whigs.

"In a state of rude nature there is no such thing as a people"! I would fain learn in what corner of the earth, rude or civilized, men are to be found who are not a people, more or less improved. "A number of men, in themselves, have no collective capacity"! I would gladly be told where, in what region, I will not say of geography—I know there is none such—but of poetry or romance, a number of men has been placed by nature, each standing alone, and not bound by any of those ties of blood, affinity and language, which form the rudiments of a collective capacity. "The idea of a people is the idea of a corporation: it is wholly artificial, and made, like all other legal fictions, by common agreement"! Indeed! is the social principle artificial? Is the gift of articulate speech, which enables man to impart his condition to man,—the organized sense, which enables him to comprehend what is imparted; is that sympathy, which subjects our opinions and feelings, and, through them, our conduct, to the influence of others, and their conduct to our influence; is that chain of cause and effect, which makes our characters receive impressions from the generations before us, and puts it in our power, by a good or bad precedent, to distil a poison or a balm into the characters of posterity;—are these, indeed, all by-laws of a corporation? Are all the feelings of ancestry, posterity, and fellow-citizenship,—all the charm, veneration, and love, bound up in the name of *country*,—the delight, the enthusiasm, with which we seek out, after the lapse of generations and ages, the traces of our fathers' bravery or wisdom,—are these all "a legal fiction"? Is it, indeed, a legal fiction, that moistens the eye of the solitary traveller, when he meets a countryman in a foreign land? Is it a "common agreement" that gives its meaning to my mother tongue, and enables me to speak to the hearts of my kindred men, beyond the rivers and beyond the mountains? Yes, it is a common agreement, recorded on the same registry with that which marshals the winged nations, that,

> "In common, ranged in figure, wedge their way,
> Intelligent of seasons; and set forth
> Their airy caravan, high over seas
> Flying, and over lands, with mutual wing
> Easing their flight."

The mutual dependence of man on man, family on family, interest on interest, is but a chapter in the great law, not of corporations, but of nature. The law by which commerce, manufactures and agriculture support each other, is the same law, in virtue of which the thirsty earth owes its fertility to the rivers and the rains,—and the clouds derive their high-travelling waters from the rising vapors,—and the ocean is fed from the secret springs of the mountains,—

and the plant that grows derives its increase from the plant that decays,—and all subsist and thrive, not by themselves, but by others, in the great political economy of nature. The necessary cohesion of the parts of the political system is no more artificial than the gravity of the natural system, in which planet is bound to planet, and all to the sun, and the sun to all. Commencing with that principle in the constitution of our race from which the family relations spring, and proceeding through the various forms of human society, up to the most nicely-balanced government, we may assert a foundation in nature for them all. Till I see the solitary man created by a miracle; or the anchorite in his cell, or the shipwrecked adventurer on his desert island, reaching the full development of all the intellectual and moral powers of our nature, I must think, that the mutual dependence on each other of the members of the body politic is as essential to the nature of man, as the gravitation of the heavenly bodies is to the natural system of the universe. And yet the great national compact—the political, intellectual, moral system—is artificial, is a legal fiction! "O that mine enemy had said it!" the admirers of Mr. Burke may well exclaim. O that some impious Voltaire, some ruthless Rousseau, had uttered it! Had uttered it?—Rousseau did utter the same thing; and more rebuked than any other error of this misguided genius, is his doctrine of the social contract, of which Burke has reasserted, and more than reasserted, the principle, in the sentences I have quoted.

But no, fellow-citizens,—political society exists by the law of nature. Man is formed for it: every man is formed for it: every man has an equal right to its privileges,—and to be deprived of them, under whatever pretence, is so far to be reduced to slavery. The authors of the Declaration of Independence saw this, and taught that all men are born free and equal. On this principle our constitutions rest; and no constitution can bind a people on any other principle. No original contract, that gives away this right, can bind any but the parties to it. My forefathers could not, if they had wished, have stipulated to their king that his children should rule over their children. By the introduction of this principle of equality it is, that the declaration of independence has at once effected a before unimagined extension of social privileges. Grant that no new blessing (which, however, can by no means with truth be granted) be introduced into the world on this plan of equality,—still it will have discharged the inestimable office of communicating, in equal proportion, to all the citizens, those privileges of the social union which were before partitioned, in an invidious gradation, profusely among the privileged orders, and parsimoniously among all the rest. Let me instance in the right of suffrage. The enjoyment of this right enters largely into the happiness of the social

condition. I do not mean that it is necessary to our happiness actually to exercise this right at every election ; but I say, the right itself to give our voice in the choice of public servants and the management of public affairs is so precious, so inestimable, that there is not a citizen who hears me that would not lay down his life to assert it. This is a right unknown in every country but ours. I say unknown, because in England, whose institutions make the nearest approach to a popular character, the elective suffrage is not only incredibly unequal and capricious in its distribution, but extends, after all, only to the choice of a minority of one house of the legislature. Thus, then, the people of this country are, by their constitutions of government, endowed with a new source of enjoyment, elsewhere almost unknown—a great and substantial happiness—an unalloyed happiness. Most of the desirable things of life bear a high price in the world's market. Every thing usually deemed a great good must, for its attainment, be weighed down, in the opposite scale, with what is as usually deemed a great evil—labor, care, danger. It is only the unbought, spontaneous, essential circumstances of our nature and condition, that yield a liberal enjoyment. Our religious hopes, intellectual meditations, social sentiments, family affections, political privileges, —these are springs of unpurchased happiness ; and to condemn men to live under an arbitrary government, is to cut them off from nearly all the satisfactions which nature designed should flow from those principles within us, by which a tribe of kindred men is constituted a people.

But it is not merely an extension to all the members of society of those blessings which, under other systems, are monopolized by a few. Great and positive improvements, I feel sure, are destined to flow from the introduction of the republican system. The first of these will be, to make wars less frequent, and finally to cause them to cease altogether. It was not a republican—it was the subject of a monarchy, and no patron of novelties—who said,

> "War is a game, which, were their subjects wise,
> Kings would not play at."

A great majority of the wars which have desolated mankind, have grown either out of the disputed titles and rival claims of sovereigns, or their personal character, particularly their ambition, or the character of their favorites, or some other circumstance evidently incident to a form of government which withholds from the people the ultimate control of affairs. And the more civilized men grow, strange as it may seem, the more universally is this the case. In the barbarous ages, the people pursued war as an occupation. Its plunder was more profitable than their labor at home, in the state of general insecurity. In modern times, princes raise their

soldiers by conscription, their sailors by impressment, and drive them, at the point of the bayonet and dirk, into the battles they fight for reasons of state. But in a republic, where the people, by their representatives, must vote the declaration of war, and afterwards raise the means of its support, none but wars of just and necessary defence can be waged. Republics, we are told, indeed, are ambitious,—a seemingly wise remark, devoid of meaning. Man is ambitious; and the question is, Where will his ambition be most likely to drive his country into war—in a monarchy, where he has but to "cry havoc, and let slip the dogs of war," or in a republic, where he must get the vote of a strong majority of the nation? Let history furnish the answer. The book which promised you, in its title, a picture of the progress of the human family, turns out to be a record, not of the human family, but of the Macedonian family, the Julian family, the families of York and Lancaster, of Lorraine and Bourbon. We need not go to the ancient annals to confirm this remark. We need not speak of those who reduced Asia and Africa, in the morning of the world, to a vassalage from which they have never recovered. We need not dwell on the more notorious exploits of the Alexanders and the Cæsars,—the men who wept for other worlds to visit with the pestilence of their arms. We need not run down the bloody line of the dark ages, when the barbarous north disgorged her ambitious savages on Europe, or when, at a later period, barbarous Europe poured back her holy ruffians on Asia. We need but look at the dates of modern history,—the history of civilized, balanced Europe. We here behold the ambition of Charles V. involving the continent of Europe in war for the first half of the sixteenth century, and the fiendlike malignity of Catharine de Medici and her kindred distracting it the other half. We see the haughty and cheerless bigotry of Philip persevering in a conflict of extermination, for one whole age, in the Netherlands, and darkening the English channel with his armada; while France prolongs her civil dissensions, because Henry IV. was the twenty-second cousin of Henry III. We enter the seventeenth century, and again find the hereditary pride and bigotry of the house of Austria wasting Germany and the neighboring powers with the Thirty Years' war; and before the peace of Westphalia is concluded, England is plunged into the fiery trial of her militant liberties. Contemporaneously, the civil wars are revived in France, and the kingdom is blighted by the passions of Mazarin. The civil wars are healed, and the atrocious career of Louis XIV. begins,—a half-century of bloodshed and woe, that stands in revolting contrast with the paltry pretences of his wars. At length the peace of Ryswic is made, in 1697, and bleeding Europe throws off the harness and lies down, like an exhausted giant, to repose. In three years, the testament of a doting

Spanish king gives the signal for the Succession war, till a cup of tea, spilt on Mrs. Masham's apron, restores peace to the afflicted kingdoms. Meantime the madman of the north had broken loose upon the world, and was running his frantic round. Peace, at length, is restored, and, with one or two short wars, it remains unbroken till, in 1740, the will of Charles VI. occasions another testamentary contest,—and, in the gallant words of the stern but relenting moralist,

"The queen, the beauty, sets the world in arms."

Eight years are this time sufficient to exhaust the combatants, and the peace of Aix-la-Chapelle is concluded; but, in 1755, the old French war is kindled in our own wilderness, and, through the united operation of the monopolizing spirit of England, the party intrigues of France, and the ambition of Frederic, spread throughout Europe. The wars of the last generation I need not name, nor dwell on that signal retribution by which the political ambition of the cabinets at length conjured up the military ambition of the astonishing individual, who seems, in our day, to have risen out of the ranks of the people to chastise the privileged orders with that iron scourge with which they had so long afflicted mankind,—to gather, with his strong plebeian hands, the fragrance of those palmy honors which they had reared, for three centuries, in the bloody gardens of their royalty. It may well be doubted whether, under a government like ours, one of all these contests would have taken place. Those that arose from disputed titles and bequests of thrones, could not, of course, have existed; and, making every allowance for the effect of popular delusion, it seems to me not possible that a representative government would have embarked in any of the wars of ambition and aggrandizement which fill up the catalogue.

Who, then, are these families and individuals—these royal *lanistæ*—by whom the nations are kept in training for a long gladiatorial combat? Are they better, wiser, than we? Look at them in life,—what are they? "Kings are fond," says Mr. Burke (no scoffer at thrones), "kings are fond of low company."* What are they when gone? *Expende Hannibalem.* Enter the great cathedrals of Europe, and contemplate the sepulchres of the men who claimed to be the lords of each successive generation. Question your own feelings as you behold where the Plantagenets and Tudors, the Stuarts and those of Brunswick, lie mournfully huddled up in the chapels of Westminster abbey, and compare those feelings with the homage you pay to Heaven's aristocracy,—the untitled learning, genius and wit that moulder by their side. Count over

* Speech on Economical Reform.

the sixty-six emperors and princes of the Austrian house, that lie gathered in the dreary pomp of monumental marble, in the vaults of the Capuchins at Vienna; and weigh the worth of their dust against the calamities of their Peasants' war, their Thirty Years' war, their Succession war, their wars to enforce the Pragmatic Sanction, and of all the other uncouth pretences for destroying mankind, with which they have plagued the world.

But the cessation of wars, to which we look forward as the result of the gradual diffusion of republican government, is but the commencement of the social improvements, which cannot but flow from the same benignant source. It has been justly said that he was a great benefactor of mankind, who could make two blades of grass grow where one grew before. But our fathers, our fathers were the benefactors of mankind, who brought into action such a vast increase of physical, political, and moral energy; who have made not two citizens to live only, but hundreds, yea, unnumbered thousands to live, and to prosper in regions, which, but for their achievements, would have remained for ages unsettled,—and to enjoy those rights of men, which, but for their institutions, would have continued to be arrogated, as the exclusive inheritance of a few. I appeal to the fact. I ask any sober judge of political probability to tell me, whether more has not been done to extend the domain of civilization, in fifty years, since the declaration of independence, than would have been done in five centuries of continued colonial subjection. It is not even a matter of probability; the king in council had adopted it, as a maxim of his American policy, that no settlements in this country should be made beyond the Alleghanies;—that the design of Providence in spreading out the fertile valley of the Mississippi should not be fulfilled.

I know that it is said, in palliation of the restrictive influence of European governments, that they are as good as their subjects can bear. I know it is said, that it would be useless and pernicious to call on the half-savage and brutified peasantry of many countries, to take a share in the administration of affairs, by electing or being elected to office. I know they are unfit for it; it is the very curse of the system. What is it that unfits them? What is it that makes slavish labor, and slavish ignorance, and slavish stupidity, their necessary heritage? Are they not made of the same Caucasian clay? Have they not five senses, the same faculties, the same passions? And is it any thing but an aggravation of the vice of arbitrary governments, that they first deprive men of their rights, and then unfit them to exercise those rights,—profanely construing the effect into a justification of the evil?

The influence of our institutions on foreign nations is—next to their effect on our own condition—the most interesting question we can contemplate. With our example of popular government

before their eyes, the nations of the earth will not eventually be satisfied with any other. With the French revolution as a beacon to guide them, they will learn, we may hope, not to embark too rashly on the mounting waves of reform. The cause, however, of popular government is rapidly gaining in the world. In England, education is carrying it wide and deep into society. On the continent, written constitutions of governments, nominally representative,—though as yet, it must be owned, nominally so alone,—are adopted in eight or ten late absolute monarchies; and it is not without good grounds that we may trust, that the indifference with which the Christian powers contemplate the sacrifice of Greece, and their crusade against the constitutions of Spain, Piedmont, and Naples, will satisfy the mass of thinking men in Europe, that it is time to put an end to these cruel delusions, and take their own government into their own hands.

But the great triumphs of constitutional freedom, to which our independence has furnished the example, have been witnessed in the southern portion of our hemisphere. Sunk to the last point of colonial degradation, they have risen at once into the organization of free republics. Their struggle has been arduous; and eighteen years of checkered fortune have not yet brought it to a close. But we must not infer, from their prolonged agitation, that their independence is uncertain; that they have prematurely put on the *toga virilis* of Freedom. They have not begun too soon; they have more to do. Our war of independence was shorter;—happily we were contending with a government, that could not, like that of Spain, pursue an interminable and hopeless contest, in defiance of the people's will. Our transition to a mature and well-adjusted constitution was more prompt than that of our sister republics; for the foundations had long been settled, the preparation long made. And when we consider that it is our example, which has aroused the spirit of independence from California to Cape Horn; that the experiment of liberty, if it had failed with us, most surely would not have been attempted by them; that even now our counsels and acts will operate as powerful precedents in this great family of republics—we learn the importance of the post which Providence has assigned us in the world. A wise and harmonious administration of the public affairs,—a faithful, liberal and patriotic exercise of the private duties of the citizen,—while they secure our happiness at home, will diffuse a healthful influence through the channels of national communication, and serve the cause of liberty beyond the equator and the Andes. When we show a united, conciliatory, and imposing front to their rising states, we show them, better than sounding eulogies can do, the true aspect of an independent republic. We give them a living example, that the fireside policy of a people is like that of the

individual man. As the one, commencing in the prudence, order and industry of the private circle, extends itself to all the duties of social life, of the family, the neighborhood, the country; so the true domestic policy of the republic, beginning in the wise organization of its own institutions, pervades its territories with a vigilant, prudent, temperate administration; and extends the hand of cordial interest to all the friendly nations, especially to those which are of the household of liberty.

It is in this way that we are to fulfil our destiny in the world. The greatest engine of moral power, which human nature knows, is an organized, prosperous state. All that man, in his individual capacity, can do—all that he can effect by his fraternities—by his ingenious discoveries and wonders of art—or by his influence over others—is as nothing, compared with the collective, perpetuated influence on human affairs and human happiness of a well-constituted, powerful commonwealth. It blesses generations with its sweet influence;—even the barren earth seems to pour out its fruits under a system where property is secure, while her fairest gardens are blighted by despotism;—men, thinking, reasoning men, abound beneath its benignant sway,—nature enters into a beautiful accord, a better, purer *asiento* with man, and guides an industrious citizen to every rood of her smiling wastes;—and we see, at length, that what has been called a state of nature, has been most falsely, calumniously so denominated; that the nature of man is neither that of a savage, a hermit, nor a slave; but that of a member of a well-ordered family, that of a good neighbor, a free citizen, a well-informed, good man, acting with others like him. This is the lesson which is taught in the charter of our independence; this is the lesson which our example is to teach the world.

The great epic poet of Rome, the subject of an absolute prince, in unfolding the duties and destinies of his countrymen, who had but lately grasped the sceptre of universal dominion, bids them look with disdain on the polished and intellectual arts of Greece, and deem their arts to be,

> To rule the nations with imperial sway,
> To spare the tribes that yield, fight down the proud,
> And force the mood of peace upon the world.

The event corresponded but too faithfully with the spirit of this inauspicious counsel, in which ambition and the lust of power are thinly disguised, under the semblance of a compulsory pacification. Rome, corrupted and corrupting, fell unlamented. Let the national career of America be conceived and pursued, under the united influence of the spirit of civilization and Christianity. Let us cultivate those humanizing and liberal arts,—the precious legacy of the bright age of Greece,—and let us learn to find the true

objects of national pride, not in military achievement and extended conquest, but in the intelligent pursuit of the great interests of social man; in the cultivation of the soil; in the various branches of productive industry; in peaceful victories over the obstacles which physical nature throws in the progress of the human mind, toward the utmost development of its powers. Let us see whether the murderous recourse to bloodshed which has hitherto disgraced the nations of Christendom, cannot be dispensed with, without sacrificing the public interest or honor; whether something effectual cannot be done to alleviate the painful inequalities of human fortune; and whether philosophy cannot be led from the closet, and religion from the altar, and made to exert a united, a practical, and an all-powerful influence on the affairs of men.

A DISCOURSE,

IN COMMEMORATION OF THE LIVES AND SERVICES OF

JOHN ADAMS AND THOMAS JEFFERSON,

DELIVERED IN FANEUIL HALL, BOSTON, AUG. 2, 1826.

BY DANIEL WEBSTER.

This is an unaccustomed spectacle. For the first time, fellow-citizens, badges of mourning shroud the columns and overhang the arches of this hall. These walls, which were consecrated, so long ago, to the cause of American liberty, which witnessed her infant struggles, and rung with the shouts of her earliest victories, proclaim, now, that distinguished friends and champions of the great cause have fallen. It is right that it should be thus. The tears which flow, and the honors that are paid, when the founders of the republic die, give hope that the republic itself may be immortal. It is fit, that by public assembly and solemn observance, by anthem and by eulogy, we commemorate the services of national benefactors, extol their virtues, and render thanks to God for eminent blessings, early given and long continued, to our favored country.

Adams and Jefferson are no more; and we are assembled, fellow-citizens, the aged, the middle-aged, and the young, by the spontaneous impulse of all, under the authority of the municipal government, with the presence of the chief magistrate of the commonwealth, and others its official representatives, the university, and the learned societies, to bear our part, in those manifestations of respect and gratitude which universally pervade the land. Adams and Jefferson are no more. On our fiftieth anniversary, the great day of national jubilee, in the very hour of public rejoicing, in the midst of echoing and reëchoing voices of thanksgiving, while their own names were on all tongues, they took their flight, together, to the world of spirits.

If it be true that no one can safely be pronounced happy while he lives; if that event which terminates life can alone crown its honors and its glory,—what felicity is here! The great Epic of

their lives, how happily concluded! Poetry itself has hardly closed illustrious lives, and finished the career of earthly renown, by such a consummation. If we had the power, we could not wish to reverse this dispensation of the Divine Providence. The great objects of life were accomplished; the drama was ready to be closed; it has closed; our patriots have fallen; but so fallen, at such age, with such coincidence, on such a day, that we cannot rationally lament that that end has come, which we knew could not be long deferred.

Neither of these great men, fellow-citizens, could have died at any time, without leaving an immense void in our American society. They have been so intimately, and for so long a time, blended with the history of the country, and especially so united, in our thoughts and recollections, with the events of the revolution, that the death of either would have touched the strings of public sympathy. We should have felt that one great link, connecting us with former times, was broken; that we had lost something more, as it were, of the presence of the revolution itself, and of the act of independence, and were driven on by another great remove, from the days of our country's early distinction, to meet posterity, and to mix with the future. Like the mariner, whom the ocean and the winds carry along, till he sees the stars which have directed his course, and lighted his pathless way, descend one by one, beneath the rising horizon, we should have felt that the stream of time had borne us onward, till another great luminary, whose light had cheered us, and whose guidance we had followed, had sunk away from our sight.

But the concurrence of their death, on the anniversary of independence, has naturally awakened stronger emotions. Both had been presidents; both had lived to great age; both were early patriots; and both were distinguished and ever honored by their immediate agency in the act of independence. It cannot but seem striking and extraordinary, that these two should live to see the fiftieth year from the date of that act; that they should complete that year; and that then, on the day which had fast linked forever their own fame with their country's glory, the heavens should open to receive them both at once. As their lives themselves were the gifts of Providence, who is not willing to recognize in their happy termination, as well as in their long continuance, proofs that our country, and its benefactors, are objects of His care?

Adams and Jefferson, I have said, are no more. As human beings, indeed, they are no more. They are no more, as in 1776, bold and fearless advocates of independence; no more, as on subsequent periods, the head of the government; no more, as we have recently seen them, aged and venerable objects of admiration and regard. They are no more. They are dead. But how little is

there of the great and good, which can die! To their country they yet live, and live forever. They live in all that perpetuates the remembrance of men on earth; in the recorded proofs of their own great actions, in the offspring of their intellect, in the deep engraved lines of public gratitude, and in the respect and homage of mankind. They live in their example; and they live, emphatically, and will live in the influence which their lives and efforts, their principles and opinions, now exercise, and will continue to exercise, on the affairs of men, not only in their own country, but throughout the civilized world. A superior and commanding human intellect, a truly great man, when Heaven vouchsafes so rare a gift, is not a temporary flame, burning bright for a while, and then expiring, giving place to returning darkness. It is rather a spark of fervent heat, as well as radiant light, with power to enkindle the common mass of human mind; so that when it glimmers, in its own decay, and finally goes out in death, no night follows, but it leaves the world all light, all on fire, from the potent contact of its own spirit. Bacon died; but the human understanding, roused by the touch of his miraculous wand, to a perception of the true philosophy, and the just mode of inquiring after truth, has kept on its course, successfully and gloriously. Newton died; yet the courses of the spheres are still known, and they yet move on, in the orbits which he saw, and described for them, in the infinity of space.

No two men now live, fellow-citizens,—perhaps it may be doubted, whether any two men have ever lived in one age,—who, more than those we now commemorate, have impressed their own sentiments, in regard to politics and government, on mankind, infused their own opinions more deeply into the opinions of others, or given a more lasting direction to the current of human thought. Their work doth not perish with them. The tree which they assisted to plant, will flourish, although they water it and protect it no longer; for it has struck its roots deep; it has sent them to the very centre; no storm, not of force to burst the orb, can overturn it; its branches spread wide; they stretch their protecting arms broader and broader, and its top is destined to reach the heavens. We are not deceived. There is no delusion here. No age will come, in which the American revolution will appear less than it is, one of the greatest events in human history. No age will come, in which it will cease to be seen and felt, on either continent, that a mighty step, a great advance, not only in American affairs, but in human affairs, was made on the 4th of July, 1776. And no age will come, we trust, so ignorant or so unjust, as not to see and acknowledge the efficient agency of these we now honor, in producing that momentous event.

We are not assembled, therefore, fellow-citizens, as men over-

whelmed with calamity by the sudden disruption of the ties of friendship or affection, or as in despair for the republic, by the untimely blighting of its hopes. Death has not surprised us by an unseasonable blow. We have, indeed, seen the tomb close, but it has closed only over mature years, over long-protracted public service, over the weakness of age, and over life itself only when the ends of living had been fulfilled. These suns, as they rose slowly, and steadily, amidst clouds and storms, in their ascendant, so they have not rushed from their meridian to sink suddenly in the west. Like the mildness, the serenity, the continuing benignity of a summer's day, they have gone down with slow-descending, grateful, long-lingering light; and now that they are beyond the visible margin of the world, good omens cheer us from "the bright track of their fiery car!"

There were many points of similarity in the lives and fortunes of these great men. They belonged to the same profession, and had pursued its studies and its practice, for unequal lengths of time indeed, but with diligence and effect. Both were learned and able lawyers. They were natives and inhabitants, respectively, of those two of the colonies, which, at the revolution, were the largest and most powerful, and which naturally had a lead in the political affairs of the times. When the colonies became, in some degree, united, by the assembling of a general congress, they were brought to act together, in its deliberations, not indeed at the same time, but both at early periods. Each had already manifested his attachment to the cause of the country, as well as his ability to maintain it by printed addresses, public speeches, extensive correspondence, and whatever other mode could be adopted, for the purpose of exposing the encroachments of the British parliament and animating the people to a manly resistance. Both were not only decided, but early friends of independence. While others yet doubted, they were resolved; while others hesitated, they pressed forward. They were both members of the committee for preparing the Declaration of Independence, and they constituted the sub-committee, appointed by the other members to make the draught. They left their seats in congress, being called to other public employments, at periods not remote from each other, although one of them returned to it, afterwards, for a short time. Neither of them was of the assembly of great men which formed the present constitution, and neither was at any time member of congress under its provisions. Both have been public ministers abroad, both vice-presidents, and both presidents. These coincidences are now singularly crowned and completed. They have died together; and they died on the anniversary of liberty.

When many of us were last in this place, fellow-citizens, it was on the day of that anniversary. We were met to enjoy the fes-

tivities belonging to the occasion, and to manifest our grateful homage to our political fathers.

We did not, we could not here, forget our venerable neighbor of Quincy. We knew that we were standing, at a time of high and palmy prosperity, where he had stood in the hour of utmost peril; that we saw nothing but liberty and security, where he had met the frown of power; that we were enjoying every thing, where he had hazarded every thing; and just and sincere plaudits rose to his name, from the crowds which filled this area, and hung over these galleries. He whose grateful duty it was to speak to us, on that day, of the virtues of our fathers, had, indeed, admonished us that time and years were about to level his venerable frame with the dust. But he bade us hope, that the "sound of a nation's joy, rushing from our cities, ringing from our valleys, echoing from our hills, might yet break the silence of his aged ear; that the rising blessings of grateful millions might yet visit, with glad light, his decaying vision." Alas! that vision was then closing forever. Alas! the silence which was then settling on that aged ear, was an everlasting silence! For, lo! in the very moment of our festivities, his freed spirit ascended to God who gave it! Human aid and human solace terminate at the grave; or we would gladly have borne him upward, on a nation's outspread hands; we would have accompanied him, and, with the blessings of millions and the prayers of millions, commended him to the divine favor.

While still indulging our thoughts on the coincidence of the death of this venerable man with the anniversary of independence, we learn that Jefferson, too, has fallen; and that these aged patriots, these illustrious fellow-laborers, had left our world together. May not such events raise the suggestion that they are not undesigned, and that Heaven does so order things as sometimes to attract strongly the attention, and excite the thoughts of men? The occurrence has added new interest to our anniversary, and will be remembered in all time to come.

The occasion, fellow-citizens, requires some account of the lives and services of John Adams and Thomas Jefferson. This duty must necessarily be performed with great brevity; and, in the discharge of it, I shall be obliged to confine myself, principally, to those parts of their history and character which belonged to them as public men.

John Adams was born at Quincy, then part of the ancient town of Braintree, on the 19th day of October (old style), 1735. He was a descendant of the Puritans, his ancestors having early emigrated from England, and settled in Massachusetts. Discovering early a strong love of reading and of knowledge, together with marks of great strength and activity of mind, proper care was taken by his worthy father, to provide for his education. He

pursued his youthful studies in Braintree, under Mr. Marsh, a teacher whose fortune it was that Josiah Quincy, Jr. as well as the subject of these remarks, should receive from him his instruction in the rudiments of classical literature. Having been admitted, in 1751, a member of Harvard college, Mr. Adams was graduated, in course, in 1755; and on the catalogue of that institution, his name, at the time of his death, was second among the living alumni, being preceded only by that of the venerable Holyoke. With what degree of reputation he left the university, is not now precisely known. We know only that he was distinguished, in a class which numbered Locke and Hemenway among its members. Choosing the law for his profession, he commenced and prosecuted his studies at Worcester, under the direction of Samuel Putnam, a gentleman whom he has himself described as an acute man, an able and learned lawyer, and as in large professional practice at that time. In 1758, he was admitted to the bar, and commenced business in Braintree. He is understood to have made his first considerable effort, or to have obtained his first signal success, at Plymouth, on one of those occasions which furnish the earliest opportunity for distinction to many young men of the profession, a jury trial, and a criminal cause. His business naturally grew with his reputation, and his residence in the vicinity afforded the opportunity, as his growing eminence gave the power, of entering on the larger field of practice which the capital presented. In 1766, he removed his residence to Boston, still continuing his attendance on the neighboring circuits, and not unfrequently called to remote parts of the province. In 1770, his professional firmness was brought to a test of some severity, on the application of the British officers and soldiers to undertake their defence, on the trial of the indictments found against them on account of the transactions of the memorable 5th of March. He seems to have thought, on this occasion, that a man can no more abandon the proper duties of his profession, than he can abandon other duties. The event proved, that as he judged well for his own reputation, so he judged well, also, for the interest and permanent fame of his country. The result of that trial proved, that notwithstanding the high degree of excitement then existing, in consequence of the measures of the British government, a jury of Massachusetts would not deprive the most reckless enemies, even the officers of that standing army, quartered among them, which they so perfectly abhorred, of any part of that protection which the law, in its mildest and most indulgent interpretation, afforded to persons accused of crimes.

Without pursuing Mr. Adams's professional course further, suffice it to say, that on the first establishment of the judicial tribunals under the authority of the state, in 1776, he received an offer

of the high and responsible station of chief justice of the Supreme Court. But he was destined for another and a different career. From early life the bent of his mind was toward politics; a propensity, which the state of the times, if it did not create, doubtless very much strengthened. Public subjects must have occupied the thoughts and filled up the conversation in the circles in which he then moved; and the interesting questions, at that time just arising, could not but seize on a mind, like his, ardent, sanguine and patriotic. The letter, fortunately preserved, written by him at Worcester so early as the 12th of October, 1755, is a proof of very comprehensive views, and uncommon depth of reflection, in a young man not yet quite twenty. In this letter he predicted the transfer of power, and the establishment of a new seat of empire in America: he predicted, also, the increase of population in the colonies; and anticipated their naval distinction, and foretold that all Europe, combined, could not subdue them. All this is said, not on a public occasion, or for effect, but in the style of sober and friendly correspondence, as the result of his own thoughts. "I sometimes retire," said he, at the close of the letter, "and, laying things together, form some reflections, pleasing to myself. The produce of one of these reveries you have read above." This prognostication, so early in his own life, so early in the history of the country, of independence, of vast increase of numbers, of naval force, of such augmented power as might defy all Europe, is remarkable. It is more remarkable, that its author should live to see fulfilled to the letter, what could have seemed to others, at the time, but the extravagance of youthful fancy. His earliest political feelings were thus strongly American; and from this ardent attachment to his native soil he never departed.

While still living at Quincy, and at the age of twenty-four, Mr. Adams was present, in this town, on the argument before the Supreme Court, respecting writs of assistance, and heard the celebrated and patriotic speech of James Otis. Unquestionably, that was a masterly performance. No flighty declamation about liberty, no superficial discussion of popular topics, it was a learned, penetrating, convincing, constitutional argument, expressed in a strain of high and resolute patriotism. He grasped the question, then pending between England and her colonies, with the strength of a lion; and if he sometimes sported, it was only because the lion himself is sometimes playful. Its success appears to have been as great as his merits, and its impression was widely felt. Mr. Adams himself seems never to have lost the feeling it produced, and to have entertained constantly the fullest conviction of its important effects. "I do say," he observes, "in the most solemn manner, that Mr. Otis's oration against writs of assistance breathed into this nation the breath of life."

In 1765, Mr. Adams laid before the public what I suppose to be his first printed performance, except essays for the periodical press, a Dissertation on the Canon and Feudal Law. The object of this work was to show that our New England ancestors, in consenting to exile themselves from their native land, were actuated, mainly, by the desire of delivering themselves from the power of the hierarchy, and from the monarchical and aristocratical political systems of the other continent; and to make this truth bear with effect on the politics of the times. Its tone is uncommonly bold and animated, for that period. He calls on the people not only to defend, but to study and understand their rights and privileges; urges earnestly the necessity of diffusing general knowledge. invokes the clergy and the bar, the colleges and academies, and all others who have the ability and the means, to expose the insidious designs of arbitrary power, to resist its approaches, and to be persuaded that there is a settled design on foot to enslave all America. "Be it remembered," says the author, "that liberty must, at all hazards, be supported. We have a right to it, derived from our Maker. But if we had not, our fathers have earned it, and bought it for us, at the expense of their ease, their estate, their pleasure, and their blood. And liberty cannot be preserved without a general knowledge among the people, who have a right, from the frame of their nature, to knowledge, as their great Creator, who does nothing in vain, has given them understandings, and a desire to know; but besides this, they have a right, an undisputable, unalienable, indefeasible right to that most dreaded and envied kind of knowledge, I mean of the character and conduct of their rulers. Rulers are no more than attorneys, agents, and trustees, of the people; and if the cause, the interest, and trust, is insidiously betrayed, or wantonly trifled away, the people have a right to revoke the authority that they themselves have deputed, and to constitute other and better agents, attorneys and trustees."

The citizens of this town conferred on Mr. Adams his first political distinction, and clothed him with his first political trust, by electing him one of their representatives, in 1770. Before this time he had become extensively known throughout the province, as well by the part he had acted in relation to public affairs, as by the exercise of his professional ability. He was among those who took the deepest interest in the controversy with England, and whether in or out of the legislature, his time and talents were alike devoted to the cause. In the years 1773 and 1774, he was chosen a counsellor, by the members of the General Court, but rejected by governor Hutchinson, in the former of those years, and by governor Gage in the latter.

The time was now at hand, however, when the affairs of the

colonies urgently demanded united councils. An open rupture with the parent state appeared inevitable, and it was but the dictate of prudence, that those who were united by a common interest and a common danger, should protect that interest, and guard against that danger, by united efforts. A general congress of delegates from all the colonies having been proposed and agreed to, the house of representatives, on the 17th of June, 1774, elected James Bowdoin, Thomas Cushing, Samuel Adams, John Adams, and Robert Treat Paine, delegates from Massachusetts. This appointment was made at Salem, where the general court had been convened by governor Gage, in the last hour of the existence of a house of representatives under the provincial charter. While engaged in this important business, the governor, having been informed of what was passing, sent his secretary with a message dissolving the general court. The secretary, finding the door locked, directed the messenger to go in and inform the speaker that the secretary was at the door with a message from the governor. The messenger returned, and informed the secretary that the orders of the house were that the doors should be kept fast; whereupon the secretary soon after read a proclamation, dissolving the general court upon the stairs. Thus terminated, forever, the actual exercise of the political power of England in or over Massachusetts. The four last-named delegates accepted their appointments, and took their seats in congress, the first day of its meeting, September 5, 1774, in Philadelphia.

The proceedings of the first congress are well known, and have been universally admired. It is in vain that we would look for superior proofs of wisdom, talent and patriotism. Lord Chatham said, that, for himself, he must declare, that he had studied and admired the free states of antiquity, the master states of the world, but that, for solidity of reasoning, force of sagacity, and wisdom of conclusion, no body of men could stand in preference to this congress. It is hardly inferior praise to say, that no production of that great man himself can be pronounced superior to several of the papers published as the proceedings of this most able, most firm, most patriotic assembly. There is, indeed, nothing superior to them in the range of political disquisition. They not only embrace, illustrate, and enforce every thing which political philosophy, the love of liberty, and the spirit of free inquiry, had antecedently produced, but they add new and striking views of their own, and apply the whole, with irresistible force, in support of the cause which had drawn them together.

Mr. Adams was a constant attendant on the deliberations of this body, and bore an active part in its important measures. He was of the committee to state the rights of the colonies, and of that also which reported the address to the king.

As it was in the continental congress, fellow-citizens, that those whose deaths have given rise to this occasion, were first brought together, and called on to unite their industry and their ability in the service of the country, let us now turn to the other of these distinguished men, and take a brief notice of his life, up to the period when he appeared within the walls of congress.

Thomas Jefferson, descended from ancestors who had been settled in Virginia for some generations, was born near the spot on which he died, in the county of Albemarle, on the 2d of April (old style), 1743. His youthful studies were pursued in the neighborhood of his father's residence, until he was removed to the college of William and Mary, the highest honors of which he in due time received. Having left the college with reputation, he applied himself to the study of the law, under the tuition of George Wythe, one of the highest judicial names of which that state can boast. At an early age he was elected a member of the legislature, in which he had no sooner appeared than he distinguished himself, by knowledge, capacity, and promptitude.

Mr. Jefferson appears to have been imbued with an early love of letters and science, and to have cherished a strong disposition to pursue these objects. To the physical sciences, especially, and to ancient classic literature, he is understood to have had a warm attachment, and never entirely to have lost sight of them, in the midst of the busiest occupations. But the times were times for action, rather than for contemplation. The country was to be defended, and to be saved, before it could be enjoyed. Philosophic leisure and literary pursuits, and even the objects of professional attention, were all necessarily postponed to the urgent calls of the public service. The exigency of the country made the same demand on Mr. Jefferson that it made on others who had the ability and the disposition to serve it; and he obeyed the call—thinking and feeling, in this respect, with the great Roman orator; Quis enim est tam cupidus in perspicienda cognoscendaque rerum natura, ut, si ei tractanti contemplantique res cognitione dignissimas subito sit allatum periculum discrimenque patriæ, cui subvenire opitularique possit, non illa omnia relinquat atque abjiciat, etiam si dinumerare se stellas, aut metiri mundi magnitudinem posse arbitretur?

Entering, with all his heart, into the cause of liberty, his ability, patriotism, and power with the pen, naturally drew upon him a large participation in the most important concerns. Wherever he was, there was found a soul devoted to the cause, power to defend and maintain it, and willingness to incur all its hazards. In 1774, he published a Summary View of the Rights of British America, a valuable production among those intended to show the dangers which threatened the liberties of the country, and to encourage the people in their defence. In June, 1775, he was elect-

ed a member of the continental congress, as successor to Peyton Randolph, who had retired on account of ill health, and took his seat in that body on the 21st of the same month.

And now, fellow-citizens, without pursuing the biography of these illustrious men further, for the present, let us turn our attention to the most prominent act of their lives, their participation in the Declaration of Independence.

Preparatory to the introduction of that important measure, a committee, at the head of which was Mr. Adams, had reported a resolution, which congress adopted the 10th of May, recommending, in substance, to all the colonies which had not already established governments suited to the exigencies of their affairs, to adopt such government, as would, in the opinion of the representatives of the people, best conduce to the happiness and safety of their constituents in particular, and America in general.

This significant vote was soon followed by the direct proposition, which Richard Henry Lee had the honor to submit to congress, by resolution, on the 7th day of June. The published journal does not expressly state it, but there is no doubt, I suppose, that this resolution was in the same words, when originally submitted by Mr. Lee, as when finally passed. Having been discussed, on Saturday the 8th, and Monday the 10th of June, this resolution was on the last-mentioned day postponed, for further consideration, to the 1st day of July; and, at the same time, it was voted, that a committee be appointed to prepare a declaration, to the effect of the resolution. This committee was elected by ballot, on the following day, and consisted of Thomas Jefferson, John Adams, Benjamin Franklin, Roger Sherman, and Robert R. Livingston.

It is usual, when committees are elected by ballot, that their members are arranged in order, according to the number of votes which each has received; Mr. Jefferson, therefore, had received the highest, and Mr. Adams the next highest number of votes. The difference is said to have been but of a single vote. Mr. Jefferson and Mr. Adams, standing thus at the head of the committee, were requested by the other members to act as a sub-committee, to prepare the draught; and Mr. Jefferson drew up the paper. The original draught, as brought by him from his study, and submitted to the other members of the committee, with interlineations in the hand-writing of Dr. Franklin, and others in that of Mr. Adams, was in Mr. Jefferson's possession at the time of his death. The merit of this paper is Mr. Jefferson's. Some changes were made in it, on the suggestion of other members of the committee, and others by congress while it was under discussion; but none of them altered the tone, the frame, the arrangement, or the general character of the instrument. As a composition, the declara-

tion is Mr. Jefferson's. It is the production of his mind, and the high honor of it belongs to him, clearly and absolutely.

It has sometimes been said, as if it were a derogation from the merits of this paper, that it contains nothing new; that it only states grounds of preceeding, and presses topics of argument, which had often been stated and pressed before. But it was not the object of the declaration to produce any thing new. It was not to invent reasons for independence, but to state those which governed the congress. For great and sufficient causes, it was proposed to declare independence; and the proper business of the paper to be drawn, was to set forth those causes, and justify the authors of the measure, in any event of fortune, to the country, and to posterity. The cause of American independence, moreover, was now to be presented to the world, in such manner, if it might so be, as to engage its sympathy, to command its respect, to attract its admiration; and in an assembly of most able and distinguished men, Thomas Jefferson had the high honor of being the selected advocate of this cause. To say that he performed his great work well, would be doing him injustice. To say that he did excellently well, admirably well, would be inadequate and halting praise. Let us rather say, that he so discharged the duty assigned him, that all Americans may well rejoice that the work of drawing the title-deed of their liberties devolved on his hands.

With all its merits, there are those who have thought that there was one thing in the declaration to be regretted; and that is, the asperity and apparent anger with which it speaks of the person of the king; the industrious ability with which it accumulates and charges upon him all the injuries which the colonies had suffered from the mother country. Possibly some degree of injustice, now or hereafter, at home or abroad, may be done to the character of Mr. Jefferson, if this part of the declaration be not placed in its proper light. Anger or resentment, certainly, much less personal reproach and invective, could not properly find place in a composition of such high dignity, and of such lofty and permanent character.

A single reflection on the original ground of dispute, between England and the colonies, is sufficient to remove any unfavorable impression, in this respect.

The inhabitants of all the colonies, while colonies, admitted themselves bound by their allegiance to the king; but they disclaimed, altogether, the authority of parliament; holding themselves, in this respect, to resemble the condition of Scotland and Ireland, before the respective unions of those kingdoms with England, when they acknowledged allegiance to the same king, but each had its separate legislature. The tie, therefore, which our revolution was to break, did not subsist between us and the British

parliament, or between us and the British government in the aggregate, but directly between us and the king himself. The colonies had never admitted themselves subject to parliament. That was precisely the point of the original controversy. They had uniformly denied that parliament had authority to make laws for them. There was, therefore, no subjection to parliament to be thrown off.* But allegiance to the king did exist, and had been uniformly acknowledged ; and down to 1775, the most solemn assurances had been given that it was not intended to break that allegiance, or to throw it off. Therefore, as the direct object and only effect of the declaration, according to the principles on which the controversy had been maintained, on our part, was to sever the tie of allegiance which bound us to the king, it was properly and necessarily founded on acts of the crown itself, as its justifying causes. Parliament is not so much as mentioned in the whole instrument. When odious and oppressive acts are referred to, it is done by charging the king with confederating with others "in pretended acts of legislation;" the object being, constantly, to hold the king himself directly responsible for those measures which were the grounds of separation. Even the precedent of the English revolution was not overlooked, and in this case, as well as in that, occasion was found to say that the king had abdicated the government. Consistency with the principles upon which resistance began, and with all the previous state papers issued by congress, required that the declaration should be bottomed on the misgovernment of the king ; and therefore it was properly framed with that aim and to that end. The king was known, indeed, to have acted, as in other cases, by his ministers, and with his parliament ; but as our ancestors had never admitted themselves subject either to ministers or to parliament, there were no reasons to be given for now refusing obedience to their authority. This clear and obvious necessity of founding the declaration on the misconduct of the king himself, gives to that instrument its personal application, and its character of direct and pointed accusation.

The declaration having been reported to congress by the committee, the resolution itself was taken up and debated on the first day of July, and again on the second, on which last day it was agreed to and adopted, in these words:—

"Resolved, That these united colonies are, and of right ought

* This question (of the power of parliament over the colonies) was discussed with singular ability, by Gov. Hutchinson on the one side, and the house of representatives of Massachusetts on the other, in 1773. The argument of the house is in the form of an answer to the governor's message, and was reported by Mr. Samuel Adams, Mr. Hancock, Mr. Hawley, Mr. Bowers, Mr. Hobson, Mr. Foster, Mr. Phillips, and Mr. Thayer. As the power of the parliament had been acknowledged—so far, at least, as to affect us by laws of trade—it was not easy to settle the line of distinction. It was thought, however, to be very clear, that the charters of the colonies had exempted them from the general legislation of the British parliament. See Massachusetts State Papers, p. 351.

to be, free and independent states; that they are absolved from all allegiance to the British crown, and that all political connection between them and the state of Great Britain is, and ought to be, totally dissolved."

Having thus passed the main resolution, congress proceeded to consider the reported draught of the declaration. It was discussed on the second, and third, and fourth days of the month, in committee of the whole; and on the last of those days, being reported from that committee, it received the final approbation and sanction of congress. It was ordered, at the same time, that copies be sent to the several states, and that it be proclaimed at the head of the army. The declaration, thus published, did not bear the names of the members, for as yet it had not been signed by them. It was authenticated, like other papers of the congress, by the signatures of the president and secretary. On the 19th of July, as appears by the secret journal, congress "resolved that the declaration, passed on the fourth, be fairly engrossed on parchment, with the title and style of 'The unanimous declaration of the Thirteen United States of America,' and that the same, when engrossed, be signed by every member of congress;" and, on the second day of August following, "the declaration, being engrossed and compared at the table, was signed by the members." So that it happens, fellow-citizens, that we pay these honors to their memory on the anniversary of that day on which these great men actually signed their names to the declaration. The declaration was thus made—that is, it passed, and was adopted as an act of congress—on the fourth of July; it was then signed and certified by the president and secretary, like other acts. The fourth of July, therefore, is the anniversary of the declaration; but the signatures of the members present were made to it, it being then engrossed on parchment, on the second day of August. Absent members afterwards signed, as they came in; and indeed it bears the names of some who were not chosen members of congress until after the fourth of July. The interest belonging to the subject will be sufficient, I hope, to justify these details.

The congress of the revolution, fellow-citizens, sat with closed doors, and no report of its debates was ever taken. The discussion, therefore, which accompanied this great measure, has never been preserved, except in memory and by tradition. But it is, I believe, doing no injustice to others to say, that the general opinion was, and uniformly has been, that in debate, on the side of independence, John Adams had no equal. The great author of the declaration himself has expressed that opinion uniformly and strongly. "John Adams," said he, in the hearing of him who has now the honor to address you, "John Adams was our colossus on the floor. Not graceful, not eloquent, not always fluent, in his

public addresses, he yet came out with a power, both of thought and of expression, which moved us from our seats."

For the part which he was here to perform, Mr. Adams was doubtless eminently fitted. He possessed a bold spirit, which disregarded danger, and a sanguine reliance on the goodness of the cause, and the virtues of the people, which led him to overlook all obstacles. His character, too, had been formed in troubled times. He had been rocked in the early storms of the controversy, and had acquired a decision and a hardihood proportioned to the severity of the discipline which he had undergone.

He not only loved the American cause devoutly, but had studied and understood it. It was all familiar to him. He had tried his powers, on the questions which it involved, often, and in various ways ; and had brought to their consideration whatever of argument or illustration the history of his own country, the history of England, or the stores of ancient or of legal learning could furnish. Every grievance enumerated in the long catalogue of the declaration had been the subject of his discussion, and the object of his remonstrance and reprobation. From 1760, the colonies, the rights of the colonies, the liberties of the colonies, and the wrongs inflicted on the colonies, had engaged his constant attention ; and it has surprised those, who have had the opportunity of observing, with what full remembrance, and with what prompt recollection, he could refer, in his extreme old age, to every act of parliament affecting the colonies, distinguishing and stating their respective titles, sections and provisions,—and to all the colonial memorials, remonstrances and petitions, with whatever else belonged to the intimate and exact history of the times from that year to 1775. It was, in his own judgment, between these years, that the American people came to a full understanding and thorough knowledge of their rights, and to a fixed resolution of maintaining them ; and, bearing himself an active part in all important transactions—the controversy with England being then, in effect, the business of his life—facts, dates, and particulars, made an impression which was never effaced. He was prepared, therefore, by education and discipline, as well as by natural talent and natural temperament, for the part which he was now to act.

The eloquence of Mr. Adams resembled his general character, and formed, indeed, a part of it. It was bold, manly and energetic ; and such the crisis required. When public bodies are to be addressed on momentous occasions, when great interests are at stake and strong passions excited, nothing is valuable, in speech, farther than it is connected with high intellectual and moral endowments. Clearness, force, and earnestness, are the qualities which produce conviction. True eloquence, indeed, does not consist in speech. It cannot be brought from far. Labor and

learning may toil for it; but they will toil in vain. Words and phrases may be marshalled in every way; but they cannot compass it. It must exist in the man, in the subject, and in the occasion. Affected passion, intense expression, the pomp of declamation, all may aspire after it—they cannot reach it. It comes, if it come at all, like the outbreaking of a fountain from the earth, or the bursting forth of volcanic fires, with spontaneous, original, native force. The graces taught in the schools, the costly ornaments, and studied contrivances of speech, shock and disgust men, when their own lives, and the fate of their wives, their children, and their country, hang on the decision of the hour. Then, words have lost their power, rhetoric is vain, and all elaborate oratory contemptible. Even genius itself then feels rebuked and subdued, as in the presence of higher qualities. Then, patriotism is eloquent; then, self-devotion is eloquent. The clear conception, outrunning the deductions of logic,—the high purpose,—the firm resolve,—the dauntless spirit, speaking on the tongue, beaming from the eye, informing every feature, and urging the whole man onward, right onward, to his object,—this, this is eloquence; or, rather, it is something greater and higher than all eloquence,—it is action, noble, sublime, godlike action.

In July, 1776, the controversy had passed the stage of argument. An appeal had been made to force, and opposing armies were in the field. Congress, then, was to decide whether the tie which had so long bound us to the parent state, was to be severed at once, and severed forever. All the colonies had signified their resolution to abide by this decision, and the people looked for it with the most intense anxiety. And surely, fellow-citizens, never, never were men called to a more important political deliberation. If we contemplate it from the point where they then stood, no question could be more full of interest: if we look at it now, and judge of its importance by its effects, it appears in still greater magnitude.

Let us, then, bring before us the assembly, which was about to decide a question thus big with the fate of empire. Let us open their doors, and look in upon their deliberations. Let us survey the anxious and care-worn countenances—let us hear the firm-toned voices, of this band of patriots.

Hancock presides over the solemn sitting; and one of those not yet prepared to pronounce for absolute independence, is on the floor, and is urging his reasons for dissenting from the declaration.

"Let us pause! This step, once taken, cannot be retraced. This resolution, once passed, will cut off all hope of reconciliation. If success attend the arms of England, we shall then be no longer colonies, with charters, and with privileges. These will all be forfeited by this act; and we shall be in the condition of other

conquered people—at the mercy of the conquerors. For ourselves, we may be ready to run the hazard ; but are we ready to carry the country to that length ?—Is success so probable as to justify it ? Where is the military, where the naval, power, by which we are to resist the whole strength of the arm of England ? for she will exert that strength to the utmost. Can we rely on the constancy and perseverance of the people ?—or will they not act as the people of other countries have acted, and, wearied with a long war, submit, in the end, to a worse oppression ? While we stand on our old ground, and insist on redress of grievances, we know we are right, and are not answerable for consequences. Nothing, then, can be imputable to us. But if we now change our object, carry our pretensions farther, and set up for absolute independence, we shall lose the sympathy of mankind. We shall no longer be defending what we possess, but struggling for something which we never did possess, and which we have solemnly and uniformly disclaimed all intention of pursuing, from the very outset of the troubles. Abandoning thus our old ground, of resistance only to arbitrary acts of oppression, the nations will believe the whole to have been mere pretence, and they will look on us, not as injured, but as ambitious subjects. I shudder before this responsibility. It will be on us, if, relinquishing the ground we have stood on so long, and stood on so safely, we now proclaim independence, and carry on the war for that object, while these cities burn, these pleasant fields whiten and bleach with the bones of their owners, and these streams run blood. It will be upon us, it will be upon us, if, failing to maintain this unseasonable and ill-judged declaration, a sterner despotism, maintained by military power, shall be established over our posterity, when we ourselves, given up by an exhausted, a harassed, a misled people, shall have expiated our rashness and atoned for our presumption on the scaffold."

It was for Mr. Adams to reply to arguments like these. We know his opinions, and we know his character. He would commence with his accustomed directness and earnestness.

"Sink or swim, live or die, survive or perish, I give my hand and my heart to this vote. It is true, indeed, that in the beginning we aimed not at independence. But there's a divinity which shapes our ends. The injustice of England has driven us to arms; and, blinded to her own interest, for our good, she has obstinately persisted, till independence is now within our grasp. We have but to reach forth to it, and it is ours. Why, then, should we defer the declaration ? Is any man so weak as now to hope for a reconciliation with England, which shall leave either safety to the country and its liberties, or safety to his own life and his own honor ? Are not you, sir, who sit in that chair,—is not he, our ven-

erable colleague near you,—are you not both already the proscribed and predestined objects of punishment and of vengeance? Cut off from all hope of royal clemency, what are you, what can you be, while the power of England remains, but outlaws? If we postpone independence, do we mean to carry on, or to give up, the war? Do we mean to submit to the measures of parliament, Boston port-bill and all? Do we mean to submit, and consent that we ourselves shall be ground to powder, and our country and its rights trodden down in the dust? I know we do not mean to submit. We never shall submit. Do we intend to violate that most solemn obligation ever entered into by men—that plighting, before God, of our sacred honor to Washington, when, putting him forth to incur the dangers of war, as well as the political hazards of the times, we promised to adhere to him, in every extremity, with our fortunes and our lives? I know there is not a man here, who would not rather see a general conflagration sweep over the land, or an earthquake sink it, than one jot or tittle of that plighted faith fall to the ground. For myself, having, twelve months ago, in this place, moved you, that George Washington be appointed commander of the forces, raised or to be raised, for defence of American liberty, may my right hand forget her cunning, and my tongue cleave to the roof of my mouth, if I hesitate or waver in the support I give him. The war, then, must go on. We must fight it through. And if the war must go on, why put off longer the declaration of independence? That measure will strengthen us. It will give us character abroad. The nations will then treat with us, which they never can do while we acknowledge ourselves subjects, in arms against our sovereign. Nay, I maintain that England herself will sooner treat for peace with us on the footing of independence, than consent, by repealing her acts, to acknowledge that her whole conduct towards us has been a course of injustice and oppression. Her pride will be less wounded, by submitting to that course of things which now predestinates our independence, than by yielding the points in controversy to her rebellious subjects. The former, she would regard as the result of fortune; the latter, she would feel as her own deep disgrace. Why, then—why, then, sir, do we not, as soon as possible, change this from a civil to a national war? And since we must fight it through, why not put ourselves in a state to enjoy all the benefits of victory, if we gain the victory?

"If we fail, it can be no worse for us. But we shall not fail. The cause will raise up armies: the cause will create navies. The people—the people, if we are true to them, will carry us, and will carry themselves, gloriously through this struggle. I care not how fickle other people have been found. I know the people of these colonies, and I know that resistance to British aggression

is deep and settled in their hearts, and cannot be eradicated. Every colony, indeed, has expressed its willingness to follow, if we but take the lead. Sir, the declaration will inspire the people with increased courage. Instead of a long and bloody war for restoration of privileges, for redress of grievances, for chartered immunities, held under a British king, set before them the glorious object of entire independence, and it will breathe into them anew the breath of life. Read this declaration at the head of the army; every sword will be drawn from its scabbard, and the solemn vow uttered, to maintain it, or to perish on the bed of honor. Publish it from the pulpit; religion will approve it, and the love of religious liberty will cling round it, resolved to stand with it, or fall with it. Send it to the public halls; proclaim it there; let them hear it, who heard the first roar of the enemy's cannon; let them see it, who saw their brothers and their sons fall on the field of Bunker Hill, and in the streets of Lexington and Concord, and the very walls will cry out in its support.

"Sir, I know the uncertainty of human affairs, but I see, I see clearly, through this day's business. You and I, indeed, may rue it. We may not live to the time when this declaration shall be made good. We may die; die, colonists; die, slaves; die, it may be, ignominiously and on the scaffold. Be it so. Be it so. If it be the pleasure of Heaven that my country shall require the poor offering of my life, the victim shall be ready, at the appointed hour of sacrifice, come when that hour may. But while I do live, let me have a country, or at least the hope of a country, and that a free country.

"But whatever may be our fate, be assured, be assured, that this declaration will stand. It may cost treasure, and it may cost blood; but it will stand, and it will richly compensate for both. Through the thick gloom of the present, I see the brightness of the future, as the sun in heaven. We shall make this a glorious, an immortal day. When we are in our graves, our children will honor it. They will celebrate it with thanksgiving, with festivity, with bonfires and illuminations. On its annual return they will shed tears, copious, gushing tears, not of subjection and slavery, not of agony and distress, but of exultation, of gratitude, and of joy. Sir, before God, I believe the hour has come. My judgment approves this measure, and my whole heart is in it. All that I have, and all that I am, and all that I hope, in this life, I am now ready here to stake upon it; and I leave off, as I began, that, live or die, survive or perish, I am for the declaration. It is my living sentiment, and by the blessing of God it shall be my dying sentiment; independence now, and independence forever."

And so that day shall be honored, illustrious prophet and patriot! so that day shall be honored, and as often as it returns, thy

renown shall come along with it, and the glory of thy life, like the day of thy death, shall not fail from the remembrance of men.

It would be unjust, fellow-citizens, on this occasion, while we express our veneration for him who is the immediate subject of these remarks, were we to omit a most respectful, affectionate, and grateful mention of those other great men, his colleagues, who stood with him, and, with the same spirit, the same devotion, took part in the interesting transaction. Hancock, the proscribed Hancock, exiled from his home by a military governor, cut off, by proclamation, from the mercy of the crown—Heaven reserved for him the distinguished honor of putting this great question to the vote, and of writing his own name first, and most conspicuously, on that parchment which spoke defiance to the power of the crown of England. There, too, is the name of that other proscribed patriot, Samuel Adams; a man who hungered and thirsted for the independence of his country; who thought the declaration halted and lingered, being himself not only ready, but eager, for it, long before it was proposed; a man of the deepest sagacity, the clearest foresight, and the profoundest judgment in men. And there is Gerry, himself among the earliest and the foremost of the patriots, found, when the battle of Lexington summoned them to common councils, by the side of Warren; a man who lived to serve his country at home and abroad, and to die in the second place in the government. There, too, is the inflexible, the upright, the Spartan character, Robert Treat Paine. He, also, lived to serve his country through the struggle, and then withdrew from her councils, only that he might give his labors and his life to his native state, in another relation. These names, fellow-citizens, are the treasures of the commonwealth; and they are treasures which grow brighter by time.

It is now necessary to resume, and to finish, with great brevity, the notice of the lives of those whose virtues and services we have met to commemorate.

Mr. Adams remained in congress from its first meeting, till November, 1777, when he was appointed minister to France. He proceeded on that service, in the February following, embarking in the Boston frigate, on the shore of his native town, at the foot of mount Wollaston. The year following, he was appointed commissioner to treat of peace with England. Returning to the United States, he was a delegate from Braintree in the convention for framing the constitution of this commonwealth, in 1780. At the latter end of the same year, he again went abroad, in the diplomatic service of the country, and was employed at various courts, and occupied with various negotiations, until 1788. The particulars of these interesting and important services this occasion does not allow time to relate. In 1782, he concluded our first

treaty with Holland. His negotiations with that republic; his efforts to persuade the States-General to recognize our independence; his incessant and indefatigable exertions to represent the American cause favorably, on the continent, and to counteract the designs of his enemies, open and secret; and his successful undertaking to obtain loans, on the credit of a nation yet new and unknown,—are among his most arduous, most useful, most honorable services. It was his fortune to bear a part in the negotiation for peace with England, and, in something more than six years from the declaration which he had so strenuously supported, he had the satisfaction to see the minister plenipotentiary of the crown subscribe to the instrument which declared that his "Britannic majesty acknowledged the United States to be free, sovereign and independent." In these important transactions, Mr. Adams's conduct received the marked approbation of congress, and of the country.

While abroad, in 1787, he published his Defence of the American Constitutions; a work of merit and ability, though composed with haste, on the spur of a particular occasion, in the midst of other occupations, and under circumstances not admitting of careful revision. The immediate object of the work was to counteract the weight of opinions advanced by several popular European writers of that day—M. Turgot, the Abbe de Mably, and Dr. Price—at a time when the people of the United States were employed in forming and revising their systems of government.

Returning to the United States in 1788, he found the new government about going into operation, and was himself elected the first vice-president—a situation which he filled with reputation for eight years, at the expiration of which he was raised to the presidential chair, as immediate successor to the immortal Washington. In this high station he was succeeded by Mr. Jefferson, after a memorable controversy between their respective friends, in 1801; and from that period his manner of life has been known to all who hear me. He has lived, for five-and-twenty years, with every enjoyment that could render old age happy. Not inattentive to the occurrences of the times, political cares have yet not materially, or for any long time disturbed his repose. In 1820, he acted as elector of president and vice-president, and in the same year we saw him, then at the age of eighty-five, a member of the convention of this commonwealth, called to revise the constitution. Forty years before, he had been one of those who formed that constitution; and he had now the pleasure of witnessing that there was little which the people desired to change. Possessing all his faculties to the end of his long life, with an unabated love of reading and contemplation, in the centre of interesting circles of friendship and affection, he was blessed, in his retirement, with whatever of repose and felicity the condition of man allows. He had, also, other enjoy-

ments. He saw around him that prosperity and general happiness, which had been the object of his public cares and labors. No man ever beheld more clearly, and for a longer time, the great and beneficial effects of the services rendered by himself to his country. That liberty, which he so early defended, that independence, of which he was so able an advocate and supporter, he saw, we trust, firmly and securely established. The population of the country thickened around him faster, and extended wider, than his own sanguine predictions had anticipated; and the wealth, respectability, and power, of the nation sprang up to a magnitude which it is quite impossible he could have expected to witness in his day. He lived, also, to behold those principles of civil freedom, which had been developed, established, and practically applied in America, attract attention, command respect, and awaken imitation, in other regions of the globe; and well might, and well did he, exclaim, "Where will the consequences of the American revolution end?"

If any thing yet remain to fill this cup of happiness, let it be added, that he lived to see a great and intelligent people bestow the highest honor in their gift, where he had bestowed his own kindest parental affections, and lodged his fondest hopes. Thus honored in life, thus happy at death, he saw the jubilee, and he died; and with the last prayers which trembled on his lips, was the fervent supplication for his country, "independence forever."

Mr. Jefferson, having been occupied, in the years 1778 and 1779, in the important service of revising the laws of Virginia, was elected governor of that state, as successor to Patrick Henry, and held the situation when the state was invaded by the British arms. In 1781, he published his Notes on Virginia, a work which attracted attention in Europe as well as America, dispelled many misconceptions respecting this continent, and gave its author a place among men distinguished for science. In November, 1783, he again took his seat in the continental congress; but in the May following was appointed minister plenipotentiary, to act abroad in the negotiation of commercial treaties, with Dr. Franklin and Mr. Adams. He proceeded to France, in execution of this mission, embarking at Boston; and that was the only occasion on which he ever visited this place. In 1785, he was appointed minister to France, the duties of which situation he continued to perform, until October, 1789, when he obtained leave to retire, just on the eve of that tremendous revolution which has so much agitated the world, in our times. Mr. Jefferson's discharge of his diplomatic duties was marked by great ability, diligence, and patriotism; and while he resided at Paris, in one of the most interesting periods, his character for intelligence, his love of knowledge, and of the society of learned men, distinguished him in the highest circles

of the French capital. No court in Europe had, at that time, in Paris, a representative commanding or enjoying higher regard, for political knowledge or for general attainment, than the minister of this then infant republic. Immediately on his return to his native country, at the organization of the government under the present constitution, his talents and experience recommended him to president Washington, for the first office in his gift. He was placed at the head of the department of state. In this situation, also, he manifested conspicuous ability. His correspondence with the ministers of other powers residing here, and his instructions to our own diplomatic agents abroad, are among our ablest state-papers. A thorough knowledge of the laws and usages of nations, perfect acquaintance with the immediate subject before him, great felicity, and still greater facility, in writing, show themselves in whatever effort his official situation called on him to make. It is believed, by competent judges, that the diplomatic intercourse of the government of the United States, from the first meeting of the continental congress in 1774 to the present time, taken together, would not suffer, in respect to the talent with which it has been conducted, by comparison with any thing which other and older states can produce; and to the attainment of this respectability and distinction, Mr. Jefferson has contributed his full part.

On the retirement of general Washington from the presidency, and the election of Mr. Adams to that office, in 1797, he was chosen vice-president. While presiding, in this capacity, over the deliberations of the senate, he compiled and published a Manual of Parliamentary Practice—a work of more labor and more merit than is indicated by its size. It is now received as the general standard by which proceedings are regulated, not only in both houses of congress, but in most of the other legislative bodies in the country. In 1801, he was elected president, in opposition to Mr. Adams, and reëlected in 1805, by a vote approaching towards unanimity.

From the time of his final retirement from public life, in 1807, Mr. Jefferson lived as became a wise man. Surrounded by affectionate friends, his ardor in the pursuit of knowledge undiminished, with uncommon health, and unbroken spirits, he was able to enjoy largely the rational pleasures of life, and to partake in that public prosperity which he had so much contributed to produce. His kindness and hospitality, the charm of his conversation, the ease of his manners, the extent of his acquirements, and especially the full store of revolutionary incidents, which he possessed, and which he knew when and how to dispense, rendered his abode in a high degree attractive to his admiring countrymen; while his high public and scientific character drew towards him every intelligent and educated traveller from abroad. Both Mr. Adams and Mr.

Jefferson had the pleasure of knowing that the respect which they so largely received, was not paid to their official stations. They were not men made great by office; but great men, on whom the country for its own benefit had conferred office. There was that in them which office did not give, and which the relinquishment of office did not and could not take away. In their retirement, in the midst of their fellow-citizens, themselves private citizens, they enjoyed as high regard and esteem, as when filling the most important places of public trust.

There remained to Mr. Jefferson yet one other work of patriotism and beneficence—the establishment of a university in his native state. To this object he devoted years of incessant and anxious attention, and by the enlightened liberality of the legislature of Virginia, and the coöperation of other able and zealous friends, he lived to see it accomplished. May all success attend this infant seminary; and may those who enjoy its advantages, as often as their eyes shall rest on the neighboring height, recollect what they owe to their disinterested and indefatigable benefactor; and may letters honor him who thus labored in the cause of letters.

Thus useful, and thus respected, passed the old age of Thomas Jefferson. But time was on its ever-ceaseless wing, and was now bringing the last hour of this illustrious man. He saw its approach with undisturbed serenity. He counted the moments as they passed, and beheld that his last sands were falling. That day, too, was at hand, which he had helped to make immortal. One wish, one hope—if it were not presumptuous—beat in his fainting breast. Could it be so—might it please God—he would desire—once more—to see the sun—once more to look abroad on the scene around him, on the great day of liberty. Heaven, in its mercy, fulfilled that prayer. He saw that sun—he enjoyed its sacred light—he thanked God for this mercy, and bowed his aged head to the grave. "*Felix, non vitæ tantum claritate, sed etiam opportunitate mortis.*"

The last public labor of Mr. Jefferson naturally suggests the expression of the high praise which is due, both to him and to Mr. Adams, for their uniform and zealous attachment to learning, and to the cause of general knowledge. Of the advantages of learning, indeed, and of literary accomplishments, their own characters were striking recommendations and illustrations. They were scholars, ripe and good scholars; widely acquainted with ancient as well as modern literature, and not altogether uninstructed in the deeper sciences. Their acquirements, doubtless, were different, and so were the particular objects of their literary pursuits; as their tastes and characters, in these respects, differed like those of other men. Being, also, men of busy lives, with great objects requiring action constantly before them, their attainments in letters

did not become showy or obtrusive. Yet I would hazard the opinion, that if we could now ascertain all the causes which gave them eminence and distinction in the midst of the great men with whom they acted, we should find, not among the least, their early acquisition in literature, the resources which it furnished, the promptitude and facility which it communicated, and the wide field it opened, for analogy and illustration; giving them, thus, on every subject, a larger view, and a broader range, as well for discussion as for the government of their own conduct.

Literature sometimes, and pretensions to it much oftener, disgusts, by appearing to hang loosely on the character, like something foreign or extraneous, not a part, but an ill-adjusted appendage; or by seeming to overload and weigh it down, by its unsightly bulk, like the productions of bad taste in architecture, where there is massy and cumbrous ornament, without strength or solidity of column. This has exposed learning, and especially classical learning, to reproach. Men have seen that it might exist, without mental superiority, without vigor, without good taste, and without utility. But, in such cases, classical learning has only not inspired natural talent; or, at most, it has but made original feebleness of intellect, and natural bluntness of perception, something more conspicuous. The question, after all, if it be a question, is, whether literature, ancient as well as modern, does not assist a good understanding, improve natural good taste, add polished armor to native strength, and render its possessor not only more capable of deriving private happiness from contemplation and reflection, but more accomplished, also, for action in the affairs of life, and especially for public action. Those whose memories we now honor, were learned men; but their learning was kept in its proper place, and made subservient to the uses and objects of life. They were scholars, not common, nor superficial; but their scholarship was so in keeping with their character, so blended and inwrought, that careless observers, or bad judges, not seeing an ostentatious display of it, might infer that it did not exist; forgetting, or not knowing, that classical learning, in men who act in conspicuous public stations, perform duties which exercise the faculty of writing, or address popular, deliberative, or judicial bodies, is often felt, where it is little seen, and sometimes felt more effectually, because it is not seen at all.

But the cause of knowledge, in a more enlarged sense, the cause of general knowledge and of popular education, had no warmer friends, nor more powerful advocates, than Mr. Adams and Mr. Jefferson. On this foundation, they knew, the whole republican system rested; and this great and all-important truth they strove to impress by all the means in their power. In the early publication, already referred to, Mr. Adams expresses the strong

and just sentiment, that the education of the poor is more important, even to the rich themselves, than all their own riches. On this great truth, indeed, is founded that unrivalled, that invaluable political and moral institution, our own blessing, and the glory of our fathers—the New England system of free schools.

As the promotion of knowledge had been the object of their regard through life, so these great men made it the subject of their testamentary bounty. Mr. Jefferson is understood to have bequeathed his library to the university, and that of Mr. Adams is bestowed on the inhabitants of Quincy.

Mr. Adams and Mr. Jefferson, fellow-citizens, were successively presidents of the United States. The comparative merits of their respective administrations for a long time agitated and divided public opinion. They were rivals, each supported by numerous and powerful portions of the people, for the highest office. This contest, partly the cause, and partly the consequence, of the long existence of two great political parties in the country, is now part of the history of our government. We may naturally regret that any thing should have occurred to create difference and discord between those who had acted harmoniously and efficiently in the great concerns of the revolution. But this is not the time, nor this the occasion, for entering into the grounds of that difference, or for attempting to discuss the merits of the questions which it involves. As practical questions, they were canvassed when the measures which they regarded were acted on and adopted; and as belonging to history, the time has not come for their consideration.

It is, perhaps, not wonderful, that when the constitution of the United States went first into operation, different opinions should be entertained as to the extent of the powers conferred by it. Here was a natural source of diversity of sentiment. It is still less wonderful, that that event, about contemporary with our government, under the present constitution, which so entirely shocked all Europe, and disturbed our relations with her leading powers, should be thought, by different men, to have different bearings on our own prosperity; and that the early measures adopted by our government, in consequence of this new state of things, should be seen in opposite lights. It is for the future historian, when what now remains of prejudice and misconception shall have passed away, to state these different opinions, and pronounce impartial judgment. In the mean time, all good men rejoice, and well may rejoice, that the sharpest differences sprung out of measures, which, whether right or wrong, have ceased, with the exigencies that gave them birth, and have left no permanent effect, either on the constitution, or on the general prosperity of the country. This remark, I am aware, may be supposed to have its exception in one

measure, the alteration of the constitution as to the mode of choosing president; but it is true in its general application. Thus the course of policy pursued towards France, in 1798, on the one hand, and the measures of commercial restriction, commenced in 1807, on the other, both subjects of warm and severe opposition, have passed away, and left nothing behind them. They were temporary, and, whether wise or unwise, their consequences were limited to their respective occasions. It is equally clear, at the same time, and it is equally gratifying, that those measures of both administrations, which were of durable importance, and which drew after them interesting and long-remaining consequences, have received general approbation. Such was the organization, or rather the creation, of the navy, in the administration of Mr. Adams; such the acquisition of Louisiana, in that of Mr. Jefferson. The country, it may safely be added, is not likely to be willing either to approve, or to reprobate, indiscriminately, and in the aggregate, all the measures of either, or of any, administration. The dictate of reason and of justice is, that, holding each one his own sentiments on the points in difference, we imitate the great men themselves, in the forbearance and moderation which they have cherished, and in the mutual respect and kindness which they have been so much inclined to feel and to reciprocate.

No men, fellow-citizens, ever served their country with more entire exemption from every imputation of selfish and mercenary motive than those to whose memory we are paying these proofs of respect. A suspicion of any disposition to enrich themselves, or to profit by their public employments, never rested on either. No sordid motive approached them. The inheritance which they have left to their children, is of their character and their fame.

Fellow-citizens, I will detain you no longer by this faint and feeble tribute to the memory of the illustrious dead. Even in other hands, adequate justice could not be performed, within the limits of this occasion. Their highest, their best praise, is your deep conviction of their merits, your affectionate gratitude for their labors and services. It is not my voice,—it is this cessation of ordinary pursuits, this arresting of all attention, these solemn ceremonies, and this crowded house, which speak their eulogy. Their fame, indeed, is safe. That is now treasured up beyond the reach of accident. Although no sculptured marble should rise to their memory, nor engraved stone bear record of their deeds, yet will their remembrance be as lasting as the land they honored. Marble columns may, indeed, moulder into dust, time may erase all impress from the crumbling stone, but their fame remains; for with AMERICAN LIBERTY it rose, and with AMERICAN LIBERTY ONLY can it perish. It was the last swelling peal of yonder choir, "THEIR BODIES ARE BURIED IN PEACE, BUT THEIR NAME LIVETH EVER-

MORE." I catch that solemn song, I echo that lofty strain of funeral triumph, "THEIR NAME LIVETH EVERMORE."

Of the illustrious signers of the Declaration of Independence there now remains only Charles Carroll. He seems an aged oak, standing alone on the plain, which time has spared a little longer, after all its contemporaries have been levelled with the dust. Venerable object! we delight to gather round its trunk, while yet it stands, and to dwell beneath its shadow. Sole survivor of an assembly of as great men as the world has witnessed, in a transaction, one of the most important that history records, what thoughts, what interesting reflections must fill his elevated and devout soul! If he dwell on the past, how touching its recollections; if he survey the present, how happy, how joyous, how full of the fruition of that hope, which his ardent patriotism indulged; if he glance at the future, how does the prospect of his country's advancement almost bewilder his weakened conception! Fortunate, distinguished patriot! Interesting relic of the past! Let him know that while we honor the dead, we do not forget the living; and that there is not a heart here which does not fervently pray that Heaven may keep him yet back from the society of his companions.

And now, fellow-citizens, let us not retire from this occasion without a deep and solemn conviction of the duties which have devolved upon us. This lovely land, this glorious liberty, these benign institutions, the dear purchase of our fathers, are ours; ours to enjoy, ours to preserve, ours to transmit. Generations past, and generations to come, hold us responsible for this sacred trust. Our fathers, from behind, admonish us, with their anxious paternal voices; posterity calls out to us, from the bosom of the future; the world turns hither its solicitous eyes—all, all conjure us to act wisely, and faithfully, in the relation which we sustain. We can never, indeed, pay the debt which is upon us; but by virtue, by morality, by religion, by the cultivation of every good principle and every good habit, we may hope to enjoy the blessing, through our day, and to leave it unimpaired to our children. Let us feel deeply how much, of what we are and of what we possess, we owe to this liberty, and these institutions of government. Nature has, indeed, given us a soil which yields bounteously to the hands of industry; the mighty and fruitful ocean is before us, and the skies over our heads shed health and vigor. But what are lands, and seas, and skies, to civilized man, without society, without knowledge, without morals, without religious culture? and how can these be enjoyed, in all their extent, and all their excellence, but under the protection of wise institutions and a free government? Fellow-citizens, there is not one of us, there is not one of us here present, who does not, at this moment, and at every moment, experience in his own condition, and in the condition of

those most near and dear to him, the influence and the benefits of this liberty, and these institutions. Let us then acknowledge the blessing; let us feel it deeply and powerfully; let us cherish a strong affection for it, and resolve to maintain and perpetuate it. The blood of our fathers, let it not have been shed in vain; the great hope of posterity, let it not be blasted.

The striking attitude, too, in which we stand to the world around us,—a topic to which, I fear, I advert too often, and dwell on too long,—cannot be altogether omitted here. Neither individuals nor nations can perform their part well, until they understand and feel its importance, and comprehend and justly appreciate all the duties belonging to it. It is not to inflate national vanity, nor to swell a light and empty feeling of self-importance; but it is that we may judge justly of our situation, and of our own duties, that I earnestly urge this consideration of our position, and our character, among the nations of the earth. It cannot be denied, but by those who would dispute against the sun, that with America, and in America, a new era commences in human affairs. This era is distinguished by free representative governments, by entire religious liberty, by improved systems of national intercourse, by a newly awakened and an unconquerable spirit of free inquiry, and by a diffusion of knowledge through the community, such as has been before altogether unknown and unheard of. America, America, our country, fellow-citizens, our own dear and native land, is inseparably connected, fast bound up, in fortune and by fate, with these great interests. If they fall, we fall with them; if they stand, it will be because we have upholden them. Let us contemplate, then, this connection, which binds the prosperity of others to our own; and let us manfully discharge all the duties which it imposes. If we cherish the virtues and the principles of our fathers, Heaven will assist us to carry on the work of human liberty and human happiness. Auspicious omens cheer us. Great examples are before us. Our own firmament now shines brightly upon our path. Washington is in the clear upper sky. Those other stars have now joined the American constellation; they circle round their centre, and the heavens beam with new light. Beneath this illumination, let us walk the course of life, and at its close devoutly commend our beloved country, the common parent of us all, to the Divine Benignity.

A DISCOURSE,

PRONOUNCED AT CAMBRIDGE, BEFORE

THE PHI BETA KAPPA SOCIETY,

AT THE ANNIVERSARY CELEBRATION ON THE THIRTY-FIRST DAY OF AUGUST, 1826.

BY JOSEPH STORY.

GENTLEMEN,

If I had consulted my own wishes, I should not have presumed to address you on the present occasion. The habits of professional employment rarely admit of leisure for the indulgence of literary taste. And in a science whose mastery demands a whole life of laborious diligence, whose details are inexhaustible, and whose intricacies task the most acute intellects, it would be matter of surprise if every hour withdrawn from its concerns did not somewhat put at hazard the success of its votary. Nor can it escape observation, how much the technical doctrines of a jurisprudence, drawn from remote antiquity, and expanding itself over the business of many ages, must have a tendency to chill that enthusiasm which lends encouragement to every enterprise, and to obscure those finer forms of thought which give to literature its lovelier, I may say, its inexpressible graces. The consciousness of difficulties of this sort may well be supposed to press upon every professional mind. They can be overlooked by those only whose youth has not been tried in the hard school of experience, or whose genius gives no credit to impossibilities.

I have not hesitated, however, to yield to your invitation, trusting to that indulgence which has not hitherto been withheld from well-meant efforts, and not unwilling to add the testimony of my own example, however humble, in favor of the claims of this society to the services of all its members.

We live in an extraordinary age. It has been marked by events which will leave a durable impression upon the pages of history by their own intrinsic importance. But they will be read with far deeper emotions in their effects upon future ages ; in their consequences upon the happiness of whole communities ; in the direct or silent changes forced by them into the very structure of society;

in the establishment of a new and mighty empire, the empire of public opinion; in the operation of what lord Bacon has characterized almost as supreme power, the power of knowledge, working its way to universality, and interposing checks upon government and people, by means gentle and decisive, which have never before been fully felt, and are, even now, perhaps, incapable of being perfectly comprehended.

Other ages have been marked by brilliant feats in arms. Wars have been waged for the best and for the worst of purposes. The ambitious conqueror has trodden whole nations under his feet, to satisfy the lust of power; and the eagles of his victories have stood on either extreme of the civilized world. The barbarian has broken loose from his northern fastnesses, and overwhelmed, in his progress, temples and thrones, the adorers of the true God, and the worshippers of idols. Heroes and patriots have successfully resisted the invaders of their country, or perished in its defence; and in each way have given immortality to their exploits. Kingdoms have been rent asunder by intestine broils, or by struggles for freedom. Bigotry has traced out the march of its persecutions in footsteps of blood, and superstition employed its terrors to nerve the arm of the tyrant, or immolate his victims. There have been ancient leagues for the partition of empires, for the support of thrones, for the fencing out of human improvement, and for the consolidation of arbitrary power. There have, too, been bright spots on the earth, where the cheering light of liberty shone in peace; where learning unlocked its stores in various profusion; where the arts unfolded themselves in every form of beauty and grandeur; where literature loved to linger in academic shades, or enjoy the public sunshine; where song lent new inspiration to the temple; where eloquence alternately consecrated the hall of legislation, or astonished the forum with its appeals.

We may not assert, that the present age can lay claim to the production of any one of the mightiest efforts of human genius. Homer and Virgil, and Shakspeare and Milton, were of other days, and yet stand unrivalled in song. Time has not inscribed upon the sepulchre of the dead any nobler names in eloquence than Demosthenes and Cicero. Who has outdone the chisel of Phidias, or the pencil of Michael Angelo and Raffaelle? Where are the monuments of our day whose architecture dares to contend with the Doric, Ionic or Corinthian of Greece, or even with the Composite or Gothic of later times? History yet points to the pregnant though brief text of Tacitus, and acknowledges no finer models than those of antiquity. The stream of a century has swept by the works of Locke and Newton; yet they still stand alone in unapproached, in unapproachable majesty.

Nor may we pronounce that the present age, by its collective

splendor in arts and arms, casts into shade all former epochs. The era of Pericles witnessed a combination of talents and acquirements, of celebrated deeds and celebrated works, which the lapse of twenty-two centuries has left unobscured. Augustus, surveying his mighty empire, could scarcely contemplate with more satisfaction the triumph of his arms, than the triumph of the philosophy and literature of Rome. France yet delights to dwell on the times of Louis the Fourteenth, as the proudest in her annals; and England (with far less propriety) looks back upon the reign of queen Anne for the best models of her literary excellence.

But, though we may not arrogate to ourselves the possession of the first genius, or the first era, in human history, let it not be imagined that we do not live in an extraordinary age. It is impossible to look around us without alternate emotions of exultation and astonishment. What shall we say of one revolution which created a nation out of thirteen feeble colonies, and founded the empire of liberty upon the basis of the perfect equality in rights and representation of all its citizens?—which commenced in a struggle, by enlightened men, for principles, and not for places, and, in its progress and conclusion, exhibited examples of heroism, patriotic sacrifices, and disinterested virtue, which have never been surpassed in the most favored regions? What shall we say of this nation, which has, in fifty years, quadrupled its population, and spread itself from the Atlantic to the Rocky mountains, not by the desolations of successful war, but by the triumphant march of industry and enterprise? What shall we say of another revolution, which shook Europe to its centre, overturned principalities and thrones, demolished oppressions whose iron had for ages entered into the souls of their subjects, and, after various fortunes of victory and defeat, of military despotism and popular commotion, ended at last in the planting of free institutions, free tenures, and representative government, in the very soil of absolute monarchy? What shall we say of another revolution, or rather series of revolutions, which has restored to South America the independence torn from her, three centuries ago, by the force or by the fraud of those nations whose present visitations bespeak a Providence which superintends and measures out, at awful distances, its rewards and its retributions? She has risen, as it were, from the depths of the ocean, where she had been buried for ages. Her shores no longer murmur with the hoarse surges of her unnavigated waters, or echo the jealous footsteps of her armed oppressors. Her forests and her table-lands, her mountains and her valleys, gladden with the voices of the free. She welcomes to her ports the whitening sails of commerce. She feels that the treasures of her mines, the broad expanse of her rivers, the beauty of her lakes, the grandeur of her scenery, the products of her fertile and inexhaustible soil,

are no longer the close domain of a distant sovereign, but the free inheritance of her own children. She sees that these are to bind her to other nations by ties which outlive all compacts and all dynasties,—by ties of mutual sympathy, mutual equality, and mutual interest.

But such events sink into nothing, compared with the great moral, political and literary revolutions by which they have been accompanied. Upon some of these topics I may not indulge myself even for a moment. They have been discussed here, and in other places, in a manner which forbids all hope of more comprehensive illustration. They may, indeed, be still followed out; but whoever dares the difficulties of such a task, will falter with unequal footsteps.

What I propose to myself, on the present occasion, is of a far more limited and humble nature. It is to trace out some of the circumstances of our age which connect themselves closely with the cause of science and letters; to sketch, here and there, a light and shadow of our days; to look somewhat at our own prospects and attainments;—and thus to lay before you something for reflection, for encouragement, and for admonition.

One of the most striking characteristics of our age, and that, indeed, which has worked deepest in all the changes of its fortunes and pursuits, is the general diffusion of knowledge. This is emphatically the age of reading. In other times, this was the privilege of the few; in ours, it is the possession of the many. Learning once constituted the accomplishment of those in the higher orders of society, who had no relish for active employment, and of those whose monastic lives and religious profession sought to escape from the weariness of their common duties. Its progress may be said to have been gradually downwards from the higher to the middle classes of society. It scarcely reached at all, in its joys or its sorrows, in its instructions or its fantasies, the home of the peasant and artisan. It now radiates in all directions, and exerts its central force more in the middle than in any other class of society. The means of education were formerly within the reach of few. It required wealth to accumulate knowledge. The possession of a library was no ordinary achievement. The learned leisure of a fellowship in some university seemed almost indispensable for any successful studies; and the patronage of princes and courtiers was the narrow avenue of public favor. I speak of a period at little more than the distance of two centuries; not of particular instances, but of the general cast and complexion of life.

The principal cause of this change is to be found in the freedom of the press, or rather in coöperating with the cheapness of the press. It has been aided, also, by the system of free schools wherever it has been established; by that liberal commerce which

connects, by golden chains, the interests of mankind; by that spirit of inquiry which Protestantism awakened throughout Christian Europe; and, above all, by those necessities which have compelled even absolute monarchs to appeal to the patriotism and common sentiments of their subjects. Little more than a century has elapsed since the press, in England, was under the control of a licenser; and within our own days only has it ceased to be a contempt, punishable by imprisonment, to print the debates of parliament. We all know how it still is on the continent of Europe. It either speaks in timid under-tones, or echoes back the prescribed formularies of the government. The moment publicity is given to affairs of state, they excite every where an irresistible interest. If discussion be permitted, it will soon be necessary to enlist talents to defend, as well as talents to devise, measures. The daily press first instructed men in their wants, and soon found that the eagerness of curiosity outstripped the power of gratifying it. No man can now doubt the fact, that wherever the press is free, it will emancipate the people; wherever knowledge circulates unrestrained, it is no longer safe to oppress; wherever public opinion is enlightened, it nourishes an independent, masculine and healthful spirit. If Faustus were now living, he might exclaim, with all the enthusiasm of Archimedes, and with a far nearer approach to the truth, Give me where I may place a free press, and I will shake the world.

One interesting effect which owes its origin to this universal love and power of reading, is felt in the altered condition of authors themselves. They no longer depend upon the smiles of a favored few. The patronage of the great is no longer submissively entreated or exultingly proclaimed. Their patrons are the public: their readers are the civilized world. They address themselves, not to the present generation alone, but aspire to instruct posterity. No blushing dedications seek an easy passport to fame, or flatter the perilous condescension of pride. No illuminated letters flourish on the silky page, asking admission to the courtly drawing-room. Authors are no longer the humble companions or dependants of the nobility; but they constitute the chosen ornaments of society, and are welcomed to the gay circles of fashion and the palaces of princes. Theirs is no longer an unthrifty vocation, closely allied to penury; but an elevated profession, maintaining its thousands in lucrative pursuits. It is not with them as it was in the days of Milton, whose immortal "Paradise Lost" drew five sterling pounds, with a contingent of five more, from the reluctant bookseller.

My lord Coke would hardly find good authority, in our day, for his provoking commentary on the memorable statute of the fourth Henry, which declares that "none henceforth shall use to multiply gold or silver, or use the craft of multiplication"—in which he

gravely enumerates five classes of beggars, ending the catalogue, in his own quaint phraseology, with "poetasters," and repeating, for the benefit of young apprentices of the law, the sad admonition,

> "Sæpe pater dixit, Studium, quid inutile tentas?
> Mævnides nullas ipse reliquit opes."

There are certainly among us those who are within the penalty of this prohibition, if my lord Coke's account of the matter is to be believed; for they are in possession of what he defines to be "a certain subtile and spiritual substance extracted out of things," whereby they transmute many things into gold. I am indeed afraid that the magician of Abbotsford is accustomed to "use the craft of multiplication;" and most of us know, to our cost, that he has changed many strange substances into very gold and very silver. Yet, even if he be an old offender in this way, as is shrewdly suspected, there is little danger of his conviction in this liberal age, since, though he gains by every thing he parts with, we are never willing to part with any thing we receive from him.

The rewards of authorship are almost as sure and regular now as those of any other profession. There are, indeed, instances of wonderful success and sad failure; of genius pining in neglect; of labor bringing nothing but sickness of the heart; of fruitless enterprise baffled in every adventure; of learning waiting its appointed time to die in patient suffering. But this is the lot of some in all times. Disappointment crowds fast upon human footsteps, in whatever paths they tread. Eminent good fortune is a prize rarely given, even to the foremost in the race. And, after all, he who has read human life most closely knows that happiness is not the constant attendant of the highest public favor, and that it rather belongs to those who, if they seldom soar, seldom fall.

Scarcely is a work of real merit dry from the English press, before it wings its way to both the Indies and Americas. It is found in the most distant climates and the most sequestered retreats. It charms the traveller as he sails over rivers and oceans. It visits our lakes and our forests. It kindles the curiosity of the thick-breathing city, and cheers the log-hut of the mountaineer. The Lake of the Woods resounds with the minstrelsy of our mother-tongue, and the plains of Hindostan are tributary to its praise. Nay, more, what is the peculiar pride of our age, the Bible may now circulate its consolations and instructions among the poor and forlorn of every land in their native dialect. Such is the triumph of letters: such is the triumph of Christian benevolence.

With such a demand for books, with such facilities of intercourse, it is no wonder that reading should cease to be a mere luxury, and should be classed among the necessaries of life. Authors may now, with a steady confidence, boast that they possess a hold on the

human mind which grapples closer and mightier than all others. They may feel sure that every just sentiment, every enlightened opinion, every earnest breathing after excellence, will awaken kindred sympathies from the rising to the setting sun.

Nor should it be overlooked what a beneficial impulse has been thus communicated to education among the female sex. If Christianity may be said to have given a permanent elevation to woman, as an intellectual and moral being, it is as true that the present age, above all others, has given play to her genius, and taught us to reverence its influence. It was the fashion of other times to treat the literary acquirements of the sex as starched pedantry or vain pretensions,—to stigmatize them as inconsistent with those domestic affections and virtues which constitute the charm of society. We had abundant homilies read upon their amiable weaknesses and sentimental delicacy,—upon their timid gentleness and submissive dependence; as if to taste the fruit of knowledge were a deadly sin, and ignorance were the sole guardian of innocence. Their whole lives were "sicklied o'er with the pale cast of thought," and concealment of intellectual power was often resorted to, to escape the dangerous imputation of masculine strength. In the higher walks of life, the satirist was not without color for the suggestion, that it was

"A youth of folly—an old age of cards;"

and that, elsewhere, "most women had no character at all" beyond that of purity and devotion to their families. Admirable as are these qualities, it seemed an abuse of the gifts of Providence to deny to mothers the power of instructing their children,—to wives the privilege of sharing the intellectual pursuits of their husbands,—to sisters and daughters the delight of ministering knowledge in the fireside circle,—to youth and beauty the charm of refined sense,—to age and infirmity the consolation of studies which elevate the soul and gladden the listless hours of despondency.

These things have, in a great measure, passed away. The prejudices which dishonored the sex have yielded to the influence of truth. By slow but sure advances education has extended itself through all ranks of female society. There is no longer any dread lest the culture of science should foster that masculine boldness or restless independence, which alarms by its sallies or wounds by its inconsistencies. We have seen that here, as every where else, knowledge is favorable to human virtue and human happiness; that the refinement of literature adds lustre to the devotion of piety; that true learning, like true taste, is modest and unostentatious; that grace of manners receives a higher polish from the discipline of the schools; that cultivated genius sheds a cheering light over domestic duties, and its very sparkles, like those of the diamond, attest

at once its power and its purity. There is not a rank of female society, however high, which does not pay homage to literature, or that would not blush even at the suspicion of that ignorance which, a half-century ago, was neither uncommon nor discreditable. There is not a parent whose pride may not glow at the thought that his daughter's happiness is, in a great measure, within her own command, whether she keeps the cool, sequestered vale of life, or visits the busy walks of fashion.

A new path is thus open for female exertion, to alleviate the pressure of misfortune, without any supposed sacrifice of dignity or modesty. Man no longer aspires to an exclusive dominion in authorship. He has rivals or allies in almost every department of knowledge; and they are to be found among those whose elegance of manners and blamelessness of life command his respect, as much as their talents excite his admiration. Who is there that does not contemplate with enthusiasm the precious fragments of Elizabeth Smith, the venerable learning of Elizabeth Carter, the elevated piety of Hannah More, the persuasive sense of Mrs. Barbauld, the elegant memoirs of her accomplished niece, the bewitching fictions of Madame D'Arblay, the vivid, picturesque and terrific imagery of Mrs. Radcliffe, the glowing poetry of Mrs. Hemans, the matchless wit, the inexhaustible conversations, the fine character-painting, the practical instructions of Miss Edgeworth, the great KNOWN, standing, in her own department, by the side of the great UNKNOWN?

Another circumstance illustrative of the character of our age, is the bold and fearless spirit of its speculations. Nothing is more common, in the history of mankind, than a servile adoption of received opinions, and a timid acquiescence in whatever is established. It matters not whether a doctrine or institution owes its existence to accident or design, to wisdom, or ignorance, or folly; there is a natural tendency to give it an undue value in proportion to its antiquity. What is obscure in its origin warms and gratifies the imagination. What in its progress has insinuated itself into the general habits and manners of a nation, becomes imbedded in the solid mass of society. It is only at distant intervals, from an aggregation of causes, that some stirring revolution breaks up the old foundations, or some mighty genius storms and overthrows the intrenchments, of error. Who would believe, if history did not record the fact, that the metaphysics of Aristotle, or rather the misuse of his metaphysics, held the human mind in bondage for two thousand years?—that Galileo was imprisoned for proclaiming the true theory of the solar system?—that the magnificent discoveries of Sir Isaac Newton encountered strong opposition from philosophers?—that Locke's Essay on the Human Understanding found its way with infinite difficulty into the studies of the English universities?—

that lord Bacon's method of induction never reached its splendid triumphs until our day?—that the doctrine of the divine right of kings, and the absolute allegiance of subjects, constituted nearly the whole theory of government from the fall of the Roman republic to the seventeenth century?—that Christianity itself was overlaid and almost buried, for many centuries, by the dreamy comments of monks, the superstitions of fanatics, and the traditions of the church?—that it was an execrable sin throughout Christendom to read and circulate the Holy Scriptures in the vulgar tongue?—nay, that it is still a crime in some nations, of which the inquisition would take no very indulgent notice, even if the head of the Catholic church should not feel, that Bible societies deserve his denunciation? Even the great reformers of the Protestant church left their work but half done, or rather came to it with notions far too limited for its successful accomplishment. They combated errors and abuses, and laid the broad foundations of a more rational faith. But they were themselves insensible to the just rights and obligations of religious inquiry. They thought all error intolerable; but they forgot, in their zeal, that the question, what was truth, was open to all for discussion. They assumed to themselves the very infallibility which they rebuked in the Romish church; and as unrelentingly persecuted heresies of opinion as those who had sat for ages in the judgment-seat of St. Peter. They allowed, indeed, that all men had a right to inquire; but they thought that all must, if honest, come to the same conclusion with themselves; that the full extent of Christian liberty was the liberty of adopting those opinions which they promulgated as true. The unrestrained right of private judgment, the glorious privilege of a free conscience, as now established in this favored land, was farther from their thoughts even than Popery itself. I would not be unjust to these great men. The fault was less theirs than that of the age in which they lived. They partook only of that spirit of infirmity which religion itself may not wholly extinguish in its sincere but over-zealous votaries. It is their glory to have laid the deep, and, I trust, the imperishable foundations of Protestantism. May it be ours to finish the work as they would have done it, if they had been permitted to enjoy the blessed light of these latter times. But let not Protestants boast of their justice or their charity while they continue to deny an equality of rights to the Catholics.

The progress of the spirit of free inquiry cannot escape the observation of the most superficial examiner of history. The press, by slow but firm steps, first felt its way, and began its attacks upon the outworks of received opinions. One error after another silently crumbled into the dust, until success seemed to justify the boldest experiments. Opinions in science, in physic, in philosophy, in morals, in religion, in literature, have been subjected to the severest

scrutiny; and many, which had grown hoary under the authority of ages, have been quietly conveyed to their last home with scarcely a solitary mourner to grace their obsequies. The contest, indeed, between old and new opinions has been, and continues to be, maintained with great obstinacy and ability on all sides, and has forced even the sluggish into the necessity of thinking for themselves. Scholars have been driven to arm themselves for attack as well as for defence; and in a literary warfare, nearly universal, have been obliged to make their appeals to the living judgment of the public for protection as well as for encouragement.

The effects of this animated and free discussion have, in general, been very salutary. There is not a single department of life which has not been invigorated by its influence, nor a single profession which has not partaken of its success.

In jurisprudence, which reluctantly admits any new adjunct, and counts in its train a thousand champions ready to rise in defence of its formularies and technical rules, the victory has been brilliant and decisive. The civil and the common law have yielded to the pressure of the times, and have adopted much which philosophy and experience have recommended, although it stood upon no text of the Pandects, and claimed no support from the feudal policy. Commercial law, at least so far as England and America are concerned, is the creation of the eighteenth century. It started into life with the genius of lord Mansfield, and, gathering in its course whatever was valuable in the earlier institutes of foreign countries, has reflected back upon them its own superior lights, so as to become the guide and oracle of the commercial world. If my own feelings do not mislead me, the profession itself has also acquired a liberality of opinion, a comprehensiveness of argumentation, a sympathy with the other pursuits of life, and a lofty eloquence, which, if ever before, belonged to it only in the best days of the best orators of antiquity. It was the bitter scoff of other times, approaching to the sententiousness of a proverb, that to be a good lawyer was to be an indifferent statesman. The profession has outlived the truth of the sarcasm. At the present moment England may count lawyers among her most gifted statesmen; and in America (I need but appeal to those who hear me for the fact) our most eminent statesmen have been—nay, still are—the brightest ornaments of our bar.

The same improving spirit has infused itself into the body of legislation and political economy. I may not adventure upon this extensive topic. But I would for a moment advert to the more benignant character manifested in the criminal law. Harsh and vindictive punishments have been discountenanced or abolished. The sanguinary codes, over which humanity wept and philosophy shuddered, have felt the potent energy of reform, and substituted

for agonizing terror the gentle spirit of mercy. America has taken the lead in this glorious march of philanthropy, under the banners of that meek sect which does good by stealth, and blushes to find it fame. There is not in the code of the Union, and probably not in that of any single state, more than ten crimes to which the sober judgment of legislation now affixes the punishment of death. England, indeed, counts in her bloody catalogue more than one hundred and sixty capital offences. But the dawn of a brighter day is opening upon her. After years of doubtful struggle, the meliorations suggested by the lamented sir Samuel Romilly have forced their way through parliament to the throne; and an enlightened ministry is redeeming her from this reproach upon her national character.

In medicine, throughout all its branches, more extraordinary changes have taken place. Here, indeed, inductive philosophy looks for some of its fairest trophies. In anatomy, in physiology, in pharmacy, in therapeutics, instructed skill, patient observation, and accurate deduction, have been substituted for vague conjecture and bold pretension. Instead of mystical compounds, and nostrums, and panaceas, science has introduced its powerful simples, and thus given energy and certainty to practice. We dream no longer over the favorite theories of the art succeeding each other in endless progression. We are content to adopt a truer course; to read nature in her operations; to compel her to give up her secrets to the expostulations of her ministers, and to answer the persevering interrogatories of her worshippers. Chemistry, by its brilliant discoveries and careful analysis, has unfolded laws which surprise us by their simplicity, as well as by the extent of their operations. By its magic touch the very elements of things seem decomposed, and to stand in disimbodied essences before us.

In theology a new era has commenced. From the days of Grotius almost to our own, a sluggish indifference to critical learning fastened upon most of those who administered the high solemnities of religion. Here and there, indeed, a noble spirit was seen, like Old Mortality, wiping away the ancient dust and retracing the fading lines, and, in his zeal for truth, undergoing almost a martyrdom. But the mass of professed theologians slumbered over the received text in easy security, or poured the distillations of one commentary into another, giving little improvement to the flavor, and none to the substance. They were, at length, roused by a spirit of another sort, which, by ridicule, or argument, or denunciation of abuses, was attempting to sap the very foundations of Christianity. It made its approaches in silence, until it had attained strength enough for an open assault; and at last, in a moment of political revolution, it erected the standard of infidelity in the very centre of Christendom. Fortunately, the critical studies of the scholars of the old world enabled

them to meet the difficulties of the occasion. The immense collations of manuscripts and various readings by such men as Mills, and Wetstein, and Kennicott, prepared the way for a more profound investigation of the genuineness and authenticity of the Scriptures. And the sober sense and unwearied diligence of our age have given to the principles of interpretation an accuracy and authority, to biblical researches a dignity and certainty, to practical as well as doctrinal theology, a logic and illustration, unparalleled in the annals of the church. If Christianity has been assailed, in our day, with uncommon ability, it has never been defended with more various learning. If it has surrendered, here and there, an interpolated passage, it has placed almost beyond the reach of doubt the general integrity of the text. If it has ceased, in some favored lands, to claim the civil arm for its protection, it has established itself in the hearts of men by all which genius could bring to illumine, or eloquence to grace, its sublime truths.

In pure mathematics and physical science there has been a correspondent advancement. The discoveries of Newton have been followed out and demonstrated, by new methods and analyses, to an extent which would surprise that great philosopher himself, if he were now living. I need but name such men as La Grange and La Place. By means of observations the heavens have been, if I may so say, circumnavigated, and every irregularity and perturbation of the motions of the heavenly bodies ascertained to depend upon the same eternal law of gravitation, and to result in the harmonious balance of forces. But it is in physical science, and especially in its adaptation to arts of life, that the present age may claim precedence of all others. I have already alluded to chemistry, which has enabled us to fix and discharge colors with equal certainty; now to imitate the whiteness of the driven snow, and now the loveliness of the Tyrian dyes. But who can measure the extent of the changes in agriculture, manufactures, and commerce, produced by the steam-engine of Watt, by the cotton-machinery of Arkwright, by the power-looms of a later period, by the cotton-gin of Whitney, and (though last, not least) by the steam-boat of Fulton? When I name these, I select but a few among the inventions of our age in which nature and art minister alternately to the wants and the triumphs of man.

If in metaphysics no brilliant discoveries have rewarded the industry of its votaries, it may, nevertheless, be said that the laws of the mind have been investigated with no common success. They have been illustrated by a fuller display of the doctrine of association of Hartley, by the common sense of Reid, by the acute discrimination of Brown, and by the incomparable elegance of Dugald Stewart. If, indeed, in this direction any new discoveries are to be expected, it appears to me (with great deference) that

they must be sought through more exact researches into that branch of physiology which respects the structure and functions of those organs which are immediately connected with the operations of the mind.

I have but glanced at most of the preceding subjects, many of which are remote from the studies which have engaged my life, and to all of which I am conscious that I am unable to do even moderate justice.

But it is to the department of general and miscellaneous literature, and, above all, of English literature, that we may look with pride and confidence. Here the genius of the age has displayed itself in innumerable varieties of form and beauty, from the humble page which presumes to teach the infant mind the first lines of thought, to the lofty works which discourse of history, and philosophy, and ethics, and government; from the voyager who collects his budget of wonders for the amusement of the idle, to the gallant adventurer to the pole, and the scientific traveller on the Andes. Poetry, too, has dealt out its enchantments with profuse liberality, —now startling us with its visionary horrors and superhuman pageants,—now scorching us with its fierce and caustic satire,—now lapping us in Elysium by the side of sunny shores, or lovely lakes, or haunted groves, or consecrated ruins. It is, indeed, no exaggeration of the truth to declare that polite literature, from the light essay to the most profound disquisition, can enumerate more excellent works, as the production of the last fifty years, than of all former ages since the revival of letters.

Periodical literature has elevated itself from an amusement of cultivated minds, or a last resort of impoverished authors, to the first rank of composition, in which the proudest are not ashamed to labor, and the highest may gain fame and consequence. A half-century ago a single magazine and a single review almost sufficed the whole reading public of England and America. At present a host crowd round us, from the gossamery repository which adorns the toilet, to the grave review which discusses the fate of empires, arraigns the counsels of statesmen, expounds all mysteries in policy and science, or, stooping from such pursuits, condescends, like other absolute powers, sometimes to crush an author to death, and sometimes to elevate him to a height where he faints from the mere sense of giddiness. We have our journals of science and journals of arts,—the New Monthly with the refreshing genius of Campbell, and the Old Monthly with the companionable qualities of a familiar friend. We have the Quarterly Reviewers,—the loyal defenders of church and state, the *laudatores temporis acti*, the champions, ay, and exemplars, too, of classical learning, the admirers of ancient establishments and ancient opinions. We have, on the other hand, the Edinburgh,—the bold

advocates of reform, and still bolder political economists, hunting out public abuses and alarming idle gentlemen-pensioners with tales of misapplied charities; now deriding, with bitter taunts, the dull but busy gleaners in literature; now brightening their pages with the sunshine of wit; and now paying homage to genius by expounding its labors in language of transcendent felicity. One might approach nearer home, and, if it were not dangerous to rouse the attention of critics, might tell of a certain North American, which has done as much to give a solid cast to our literature, and a national feeling to our authors, as any single event since the peace of 1783.

Another interesting accompaniment of the literature of the age, is its superior moral purity over former productions. The obscene jests, the low ribaldry, and the coarse allusions, which shed a disastrous light on so many pages of misguided genius in former times, find no sympathy in ours. He who would now command respect must write with pure sentiments and elevated feelings. He who would now please must be chaste as well as witty, and moral as well as brilliant. Fiction itself is restrained to the decencies of life; and whether in the drama, or the novel, or the song, with a few melancholy exceptions, it seeks no longer to kindle fires which would consume the youthful enthusiast, or to instil precepts which would blast the loveliness of the innocent.

But let it not be imagined that, in the present state of things, there is nothing for regret and nothing for admonition. The picture of the age, when truly drawn, is not wholly composed of lights. There are shades which disturb the beauty of the coloring, and points of reflection where there is no longer harmony in the proportions.

The unavoidable tendency of free speculation is to lead to occasional extravagances. When once the reverence for authority is shaken, there is apt to grow up, in its stead, a cold skepticism respecting established opinions. Their very antiquity, under such circumstances, betrays us into suspicion of their truth. The overthrow of error itself urges on a feverish excitement for discussion, and a restless desire for novelty, which blind, if they do not confound, the judgment. Thus the human mind not unfrequently passes from one extreme to another,—from one of implicit faith to one of absolute incredulity.

There is not a remark, deducible from the history of mankind, more important than that advanced by Mr. Burke, that "to innovate is not to reform." That is (if I may venture to follow out the sense of this great man), that innovation is not necessarily improvement; that novelty is not necessarily excellence; that what was deemed wisdom in former times is not necessarily folly in ours; that the course of the human mind has not been to pre-

sent a multitude of truths in one great step of its glory, but to gather them up insensibly in its progress, and to place them at distances—sometimes at vast distances—as guides or warnings to succeeding ages. If Greece and Rome did not solve all the problems of civil government, or enunciate the admirable theorem of representative legislation, it should never be forgotten that from them we have learned those principles of liberty, which, in the worst of times, have consoled the patriot for all his sufferings. If they cannot boast of the various attainments of our days, they may point out to us the lessons of wisdom, the noble discoveries and the imperishable labors of their mighty dead. It is not necessarily error to follow the footsteps of ancient philosophy, to reverence the precepts of ancient criticism, to meditate over the pages of ancient exploits, or to listen to the admonitions of ancient oratory.

We may even gather instruction from periods of another sort, in which there was a darkness which might be felt as well as seen. Where is to be found a nobler institution than the trial by jury,—that impregnable bulwark of civil liberty? Yet it belongs to ages of Gothic darkness or Saxon barbarism. Where is there a more enduring monument of political wisdom than the separation of the judicial from legislative powers? Yet it was the slow production of ages which are obscured by the mists of time. Where shall we point out an invention whose effects have been more wide or more splendid than those of the mariner's compass? Yet five centuries have rolled over the grave of its celebrated discoverer. Where shall we find the true logic of physical science so admirably stated, as in the Novum Organum of him who, more than two centuries ago, saw, as in vision, and foretold, as in prophecy, the sublime discoveries of these latter days?

This is a topic which may not wholly be passed over, since it presents some of the dangers to which we are exposed, and calls upon us to watch the progress of opinion, and guard against the seductive influence of novelties. The busy character of the age is perpetually pressing forward all sorts of objections to established truths in politics, and morals, and literature. In order to escape from the imputation of triteness, some authors tax their ingenuity to surprise us with bold paradoxes, or run down, with wit and ridicule, the doctrines of common sense, appealing sometimes to the ignorance and sometimes to the pride of their readers. Their object is not so much to produce what is true as what is striking,—what is profound, as what is interesting,—what will endure the test of future criticism, as what will buoy itself up on the current of a shallow popularity. In the rage for originality the old standards of taste are deserted or treated with cold indifference; and thus false and glittering thoughts, and hurried and flippant fantasies, are substituted for exact and philosophical reasoning.

There is, too, a growing propensity to disparage the importance of classical learning. Many causes, especially in England and America, have conduced to this result. The signal success which has followed the enterprises in physical science, in mechanics, in chemistry, in civil engineering, and the ample rewards, both of fortune and fame, attendant upon that success, have had a very powerful influence upon the best talents of both countries. There is, too, in the public mind a strong disposition to turn every thing to a practical account,—to deal less with learning and more with experiment,—to seek the solid comforts of opulence, rather than the indulgence of mere intellectual luxury. On the other hand, from the increase of materials as well as of critical skill, high scholarship is a prize of no easy attainment; and, when attained, it slowly receives public favor, and still more slowly reaches the certainty of wealth. Indeed, it is often combined with a contemplative shyness and sense of personal independence, which yield little to policy and with difficulty brook opposition. The honors of the world rarely cluster round it, and it cherishes, with most enthusiasm, those feelings which the active pursuits of life necessarily impair, if they do not wholly extinguish. The devotion to it, therefore, where it exists, often becomes our exclusive passion; and thus the gratification of it becomes the end, instead of the means, of life. Instances of extraordinary success, by mere scholarship, are more rare than in other professions. It is not, then, to be wondered at, that the prudence of some minds, and the ambition of others, should shrink from labors which demand days and nights of study, and hold out rewards which are distant, or pleasures which are, for the most part, purely intellectual.

Causes like these, in an age which scrutinizes and questions the pretensions of every department of literature, have contributed to bring into discussion the use and the value of classical learning. I do not stand up, on this occasion, to vindicate its claims or extol its merits. That would be a fit theme for one of our most distinguished scholars, in a large discourse. But I may not withhold my willing testimony to its excellence, nor forget the fond regret with which I left its enticing studies for the discipline of more severe instructors.

The importance of classical learning to professional education is so obvious, that the surprise is that it could ever have become matter of disputation. I speak not of its power in refining the taste, in disciplining the judgment, in invigorating the understanding, or in warming the heart with elevated sentiments; but of its power of direct, positive, necessary instruction. Until the eighteenth century, the mass of science, in its principal branches, was deposited in the dead languages, and much of it still reposes there. To be ignorant of these languages is to shut out the lights of for-

mer times, or to examine them only through the glimmerings of inadequate translations. What should we say of the jurist who never aspired to learn the maxims of law and equity which adorn the Roman codes? What of the physician who could deliberately surrender all the knowledge heaped up, for so many centuries, in the Latinity of continental Europe? What of the minister of religion who should choose not to study the Scriptures in the original tongue, and should be content to trust his faith and his hopes, for time and for eternity, to the dimness of translations which may reflect the literal import, but rarely can reflect, with unbroken force, the beautiful spirit of the text? Shall he, whose vocation it is "to allure to brighter worlds and lead the way," be himself the blind leader of the blind? Shall he follow the commentaries of fallible man, instead of gathering the true sense from the Gospels themselves? Shall he venture upon the exposition of divine truths whose studies have never aimed at the first principles of interpretation? Shall he proclaim the doctrines of salvation, who knows not and cares not whether he preaches an idle gloss or the genuine text of revelation? If a theologian may not pass his life in collating the various readings, he may and ought to aspire to that criticism which illustrates religion by all the resources of human learning; which studies the manners and institutions of the age and country in which Christianity was first promulgated; which kindles an enthusiasm for its precepts by familiarity with the persuasive language of Him who poured out his blessings on the mount, and of Him at whose impressive appeal Felix trembled.

I pass over all consideration of the written treasures of antiquity which have survived the wreck of empires and dynasties; of monumental trophies and triumphal arches; of palaces of princes and temples of the gods. I pass over all consideration of those admired compositions in which wisdom speaks as with a voice from heaven; of those sublime efforts of poetical genius which still freshen, as they pass from age to age, in undying vigor; of those finished histories which still enlighten and instruct governments in their duty and their destiny; of those matchless orations which roused nations to arms and chained senates to the chariot-wheels of all-conquering eloquence. These all may now be read in our vernacular tongue. Ay, as one remembers the face of a dead friend by gathering up the broken fragments of his image;—as one listens to the tale of a dream twice told;—as one catches the roar of the ocean in the ripple of a rivulet;—as one sees the blaze of noon in the first glimmer of twilight.

There is one objection, however, on which I would for a moment dwell, because it has a commanding influence over many minds, and is clothed with a specious importance. It is often said that there have been eminent men and eminent writers to whom

the ancient languages were unknown,—men who have risen by the force of their talents, and writers who have written with a purity and ease which hold them up as models for imitation. On the other hand, it is as often said that scholars do not always compose either with elegance or chasteness; that their diction is sometimes loose and harsh, and sometimes ponderous and affected. Be it so. I am not disposed to call in question the accuracy of either statement. But I would, nevertheless, say that the presence of classical learning was not the cause of the faults of the one class, nor the absence of it the cause of the excellence of the other. And I would put this fact, as an answer to all such reasonings, that there is not a single language of modern Europe, in which literature has made any considerable advances, which is not directly of Roman origin, or has not incorporated into its very structure many, very many, of the idioms and peculiarities of the ancient tongues. The English language affords a strong illustration of the truth of this remark. It abounds with words and meanings drawn from classical sources. Innumerable phrases retain the symmetry of their ancient dress. Innumerable expressions have received their vivid tints from the beautiful dyes of Roman and Grecian roots. If scholars, therefore, do not write our language with ease, or purity, or elegance, the cause must lie somewhat deeper than a conjectural ignorance of its true diction.

But I am prepared to yield still more to the force of the objection. I do not deny that a language may be built up without the aid of any foreign materials, and be at once flexible for speech and graceful for composition; that the literature of a nation may be splendid and instructive, full of interest and beauty in thought and in diction, which has no kindred with classical learning; that, in the vast stream of time, it may run its own current unstained by the admixture of surrounding languages; that it may realize the ancient fable, "*Doris amara suam non intermisceat undam;*" that it may retain its own flavor, and its own bitter saltness too. But I do deny that such a national literature does in fact exist, in modern Europe, in that community of nations of which we form a part, and to whose fortunes and pursuits in literature and arts we are bound by all our habits, and feelings, and interests. There is not a single nation from the north to the south of Europe, from the bleak shores of the Baltic to the bright plains of immortal Italy, whose literature is not imbedded in the very elements of classical learning. The literature of England is, in an emphatic sense, the production of her scholars,—of men who have cultivated letters in her universities, and colleges, and grammar-schools,—of men who thought any life too short, chiefly because it left some relic of antiquity unmastered, and any other fame humble, because it faded in the presence of Roman and Grecian genius. He who studies English

literature without the lights of classical learning, loses half the charms of its sentiments and style, of its force and feelings, of its delicate touches, of its delightful allusions, of its illustrative associations. Who that reads the poetry of Gray does not feel that it is the refinement of classical taste which gives such inexpressible vividness and transparency to his diction? Who that reads the concentrated sense and melodious versification of Dryden and Pope, does not perceive in them the disciples of the old school, whose genius was inflamed by the heroic verse, the terse satire, and the playful wit of antiquity? Who that meditates over the strains of Milton does not feel that he drank deep

> —— At "Siloa's brook, that flowed
> Fast by the oracle of God;"

that the fires of his magnificent mind were lighted by coals from ancient altars?

It is no exaggeration to declare, that he who proposes to abolish classical studies proposes to render, in a great measure, inert and unedifying the mass of English literature for three centuries; to rob us of much of the glory of the past, and much of the instruction of future ages; to blind us to excellences which few may hope to equal, and none to surpass; to annihilate associations which are interwoven with our best sentiments, and give to distant times and countries a presence and reality as if they were, in fact, our own.

There are dangers of another sort which beset the literature of the age. The constant demand for new works, and the impatience for fame, not only stimulate authors to an undue eagerness for strange incidents, singular opinions, and vain sentimentalities, but their style and diction are infected with the faults of extravagance and affectation. The old models of fine writing and good taste are departed from, not because they can be excelled, but because they are known and want freshness; because, if they have a finished coloring, they have no strong contrasts to produce effect. The consequence is, that opposite extremes in the manner of composition prevail at the same moment, or succeed each other with a fearful rapidity. On one side are to be found authors who profess to admire the easy flow and simplicity of the old style,—the naturalness of familiar prose, and the tranquil dignity of higher compositions. But in their desire to be simple, they become extravagantly loose and inartificial; in their familiarity, feeble and drivelling; and in their more aspiring efforts, cold, abstract, and harsh. On the other side, there are those who have no love for polished perfection of style,—for sustained and unimpassioned accuracy,—for persuasive, but equable diction. They require more hurried tones, more stirring spirit, more glowing and irregular sentences. There must be intensity of thought and intensity of

phrase at every turn. There must be bold and abrupt transitions, strong relief, vivid coloring, forcible expression. If these are present, all other faults are forgiven or forgotten. Excitement is produced, and taste may slumber.

Examples of each sort may be easily found, in our miscellaneous literature, among minds of no ordinary cast. Our poetry deals less than formerly with the sentiments and feelings belonging to ordinary life. It has almost ceased to be didactic, and, in its scenery and descriptions, reflects too much the peculiarities and morbid visions of eccentric minds. How little do we see of the simple beauty, the chaste painting, the unconscious moral grandeur of Crabbe and Cowper! We have, indeed, successfully dethroned the heathen deities. The Muses are no longer invoked by every unhappy inditer of verse. The Naiads no longer inhabit our fountains, nor the Dryads our woods. The river gods no longer rise, like old father Thames,

"And the hushed waves glide softly to the shore."

In these respects our poetry is more true to nature, and more conformable to just taste. But it still insists too much on extravagant events, characters, and passions, far removed from common life, and farther removed from general sympathy. It seeks to be wild, and fiery, and startling; and sometimes, in its caprices, low and childish. It portrays natural scenery as if it were always in violent commotion. It describes human emotions as if man were always in ecstasies or horrors. Whoever writes for future ages must found himself upon feelings and sentiments belonging to the mass of mankind. Whoever paints from nature will rarely depart from the general character of repose impressed upon her scenery, and will prefer truth to the ideal sketches of the imagination.

Our prose, too, has a tendency to become somewhat too ambitious and intense. Even in newspaper discussions of the merits or misdeeds of rulers, there is a secret dread of neglect, unless the page gives out the sententious pungency or sarcastic scorn of Junius. Familiar, idiomatic prose seems less attractive than in former times. Yet one would suppose that we might follow with safety the unaffected purity of Addison in criticism, and the graceful ease of Goldsmith in narrative. The neat and lively style of Swift loses nothing of its force by the simplicity with which it aims to put "proper words in proper places." The correspondence of Cowper is not less engaging because it utters no cant phrases, no sparkling conceits, and no pointed repartees.

But these faults may be considered as temporary, and are far from universal. There is another, however, which is more serious and important in its character, and is the common accompaniment of success. It is the strong temptation of distinguished authors

to premature publication of their labors, to hasty and unfinished sketches, to fervid but unequal efforts. He who writes for immortality, must write slowly, and correct freely. It is not the applause of the present day, or the deep interest of a temporary topic, or the consciousness of great powers, or the striking off of a vigorous discourse, which will ensure a favorable verdict from posterity. It was a beautiful remark of sir Joshua Reynolds, "that great works, which are to live, and stand the criticism of posterity, are not performed at a heat." "I remember," said he, "when I was at Rome, looking at the fighting gladiator, in company with an eminent sculptor, and I expressed my admiration of the skill with which the whole is composed, and the minute attention of the artist to the change of every muscle in that momentary exertion of strength. He was of opinion, that a work so perfect required nearly the whole life of man to perform." What an admonition! What a melancholy reflection to those who deem the literary fame of the present age the best gift to posterity! How many of our proudest geniuses have written, and continue to write, with a swiftness which almost rivals the operations of the press! How many are urged on to the ruin of their immortal hopes by that public favor which receives with acclamations every new offspring of their pen! If Milton had written thus, we should have found no scholar of our day, no "Christian Examiner," portraying the glory of his character with the enthusiasm of a kindred spirit. If Pope had written thus, we should have had no fierce contests respecting his genius and poetical attainments by our Byrons, and Bowleses, and Roscoes. If Virgil had written thus, he might have chanted his verses to the courtly Augustus; but Marcellus and his story would have perished. If Horace had written thus, he might have enchanted gay friends and social parties; but it would never have been said of his composition, *Decies repetita placebit.*

Such are some of the considerations which have appeared to me fit to be addressed to you on the present occasion. It may be that I have overrated their importance; and I am not unconscious of the imperfections of my own execution of the task.

To us, Americans, nothing, indeed, can, or ought to be indifferent, that respects the cause of science and literature. We have taken a stand among the nations of the earth, and have successfully asserted our claim to political equality. We possess an enviable elevation, so far as concerns the structure of our government, our political policy, and the moral energy of our institutions. If we are not without rivals in these respects, we are scarcely behind any, even in the general estimate of foreign nations themselves. But our claims are far more extensive. We assert an equality of voice and vote in the republic of letters, and assume for

ourselves the right to decide on the merits of others, as well as to vindicate our own. These are lofty pretensions, which are never conceded without proofs, and are severely scrutinized, and slowly admitted by the grave judges in the tribunal of letters. We have not placed ourselves as humble aspirants, seeking our way to higher rewards under the guardianship of experienced guides. We ask admission into the temple of fame, as joint heirs of the inheritance, capable in the manhood of our strength of maintaining our title. We contend for prizes with nations whose intellectual glory has received the homage of centuries. France, Italy, Germany, England, can point to the past for monuments of their genius and skill, and to the present with the undismayed confidence of veterans. It is not for us to retire from the ground which we have chosen to occupy, nor to shut our eyes against the difficulties of maintaining it. It is not by a few vain boasts, or vainer self-complacency, or rash daring, that we are to win our way to the first literary distinction. We must do as others have done before us. We must serve in the hard school of discipline; we must invigorate our powers by the studies of other times. We must guide our footsteps by those stars which have shone, and still continue to shine, with inextinguishable light in the firmament of learning. Nor have we any reason for despondency. There is that in American character which has never yet been found unequal to its purpose. There is that in American enterprise, which shrinks not, and faints not, and fails not in its labors. We may say with honest pride,

> "Man is the nobler growth our realms supply,
> And souls are ripened in our northern sky."

We may not then shrink from a rigorous examination of our own deficiencies in science and literature. If we have but a just sense of our wants, we have gained half the victory. If we but face our difficulties, they will fly before us. Let us not discredit our just honors by exaggerating little attainments. There are those in other countries, who can keenly search out, and boldly expose every false pretension. There are those in our own country, who would scorn a reputation ill founded in fact, and ill sustained by examples. We have solid claims upon the affection and respect of mankind. Let us not jeopard them by a false shame, or an ostentatious pride. The growth of two hundred years is healthy, lofty, expansive. The roots have shot deep and far; the branches are strong and broad. I trust that many, many centuries to come will witness the increase and vigor of the stock. Never, never may any of our posterity have just occasion to speak of our country in the expressiveness of Indian rhetoric—"It is an aged hemlock; it is dead at the top."

I repeat it, we have no reason to blush for what we have been, or what we are. But we shall have much to blush for, if, when the highest attainments of the human intellect are within our reach, we surrender ourselves to an obstinate indifference, or shallow mediocrity; if, in our literary career, we are content to rank behind the meanest principality of Europe. Let us not waste our time in seeking for apologies for our ignorance, where it exists, or in framing excuses to conceal it. Let our short reply to all such suggestions be, like the answer of a noble youth on another occasion, that we know the fact, and are every day getting the better of it.

What, then, may I be permitted to ask, are our attainments in science and literature, in comparison with those of other nations in our age? I do not ask, if we have fine scholars, accomplished divines, and skilful physicians. I do not ask, if we have lawyers, who might excite a generous rivalry in Westminster Hall. I do not ask, if we have statesmen, who would stand side by side with those of the old world in foresight, in political wisdom, in effective debate. I do not ask, if we have mathematicians, who may claim kindred with the distinguished of Europe. I do not ask, if we have historians, who have told, with fidelity and force, the story of our deeds and our sufferings. I do not ask, if we have critics, and poets, and philologists, whose compositions add lustre to the age. I know, full well that there are such. But they stand as light-houses on the coasts of our literature, shining with a cheering brightness, it is true, but too often at distressing distances.

In almost every department of knowledge the land of our ancestors annually pours forth from its press many volumes, the results of deep research, of refined taste, and of rich and various learning. The continent of Europe, too, burns with a generous zeal for science, even in countries where the free exercise of thought is prohibited, and a stinted poverty presses heavily on the soul of enterprise. Our own contributions to literature are useful and creditable; but it can rarely be said that they belong to the highest class of intellectual effort. We have but recently entered upon classical learning for the purpose of cultivating its most profound studies, while Europe may boast of thousands of scholars engaged in this pursuit. The universities of Cambridge and Oxford count more than eight thousand students trimming their classical lamps, while we have not a single university, whose studies profess to be extensive enough to educate a Heyne, a Bentley, a Porson, or a Parr. There is not, perhaps, a single library in America sufficiently copious to have enabled Gibbon to verify the authorities for his immortal History of the Decline and Fall of the Roman Empire. Our advances in divinity and law are probably as great as in any branch of knowledge. Yet, until a late period,

we never aspired to a deep and critical exposition of the Scriptures. We borrowed from Germany and England nearly all our materials, and are just struggling for the higher rewards of biblical learning. And in law, where our eminence is least of all questionable, there are those among us, who feel, that sufficient of its learning, and argument, and philosophy, remains unmastered, to excite the ambition of the foremost advocates.

Let me not be misunderstood. I advert to these considerations not to disparage our country, or its institutions, or its means of extensive, I had almost said, of universal education. But we should not deceive ourselves with the notion, that, because education is liberally provided for, the highest learning is within the scope of that education. Our schools neither aim at, nor accomplish such objects. There is not a more dangerous error than that which would soothe us into indolence, by encouraging the belief that our literature is all it can, or ought to be; that all beyond is shadowy and unsubstantial, the vain theories of the scientific, or the reveries of mere scholars. The admonition which addresses itself to my countrymen respecting their deficiencies, ought to awaken new energy to overcome them. They are accustomed to grapple with difficulties. They should hold nothing which human genius or human enterprise has yet attained, as beyond their reach. The motto on their literary banner should be, *Nec timeo nec sperno*. I have no fears for the future. It may not be our lot to see our celebrity in letters rival that of our public polity and free institutions. But the time cannot be far distant. It is scarcely prophecy to declare, that our children must and will enjoy it. They will see not merely the breathing marble, and the speaking picture, among their arts, but science and learning every where paying a voluntary homage to American genius.

There is, indeed, enough in our past history to flatter our pride, and encourage our exertions. We are of the lineage of the Saxons, the countrymen of Bacon, Locke, and Newton, as well as of Washington, Franklin, and Fulton. We have read the history of our forefathers. They were men full of piety, and zeal, and an unconquerable love of liberty. They also loved human learning, and deemed it second only to divine. Here, on this very spot, in the bosom of the wilderness, within ten short years after their voluntary exile, in the midst of cares, and privations, and sufferings, they found time to rear a little school, and dedicate it to God and the church. It has grown; it has flourished; it is the venerable university, to whose walls her grateful children annually come with more than filial affection. The sons of such ancestors can never dishonor their memories; the pupils of such schools can never be indifferent to the cause of letters.

There is yet more in our present circumstances to inspire us

with a wholesome consciousness of our powers and our destiny. We have just passed the jubilee of our independence, and witnessed the prayers and gratitude of millions ascending to Heaven for our public and private blessings. That independence was the achievement, not of faction and ignorance, but of hearts as pure, and minds as enlightened, and judgments as sound, as ever graced the annals of mankind. Among the leaders were statesmen and scholars, as well as heroes and patriots. We have followed many of them to the tomb, blessed with the honors of their country. We have been privileged yet more; we have lived to witness an almost miraculous event in the departure of two great authors of our independence on that memorable and blessed day of jubilee.

I may not in this place presume to pronounce the funeral panegyric of these extraordinary men. It has been already done by some of the master spirits of our country, by men worthy of the task, worthy as Pericles to pronounce the honors of the Athenian dead. It was the beautiful saying of the Grecian orator, that "This whole earth is the sepulchre of illustrious men. Nor is it the inscriptions on the columns in their native soil alone, that show their merit; but the memorial of them, better than all inscriptions, in every foreign nation, reposited more durably in universal remembrance, than on their own tomb."

Such is the lot of Adams and Jefferson. They have lived, not for themselves, but for their country; not for their country alone, but for the world. They belong to history, as furnishing some of the best examples of disinterested and successful patriotism. They belong to posterity, as the instructors of all future ages in the principles of rational liberty and the rights of the people. They belong to us of the present age, by their glory, by their virtues, and by their achievements. These are memorials which can never perish. They will brighten with the lapse of time, and, as they loom on the ocean of eternity, will seem present to the most distant generations of men. That voice of more than Roman eloquence, which urged and sustained the declaration of independence—that voice, whose first and whose last accents were for his country, is indeed mute. It will never again rise in defence of the weak against popular excitement, and vindicate the majesty of law and justice. It will never again awaken a nation to arms to assert its liberties. It will never again instruct the public councils by its wisdom. It will never again utter its almost oracular thoughts in philosophical retirement. It will never again pour out its strains of parental affection, and in the domestic circle, give new force and fervor to the consolations of religion. The hand, too, which inscribed the Declaration of Independence is indeed laid low. The weary head reposes on its mother earth. The mountain winds sweep by the narrow tomb, and all around has the loneli-

ness of desolation. The stranger guest may no longer visit that hospitable home, and find him there, whose classical taste and various conversation lent a charm to every leisure hour; whose bland manners and social simplicity made every welcome doubly dear; whose expansive mind commanded the range of almost every art and science; whose political sagacity, like that of his illustrious coadjutor, read the fate and interests of nations, as with a second sight, and scented the first breath of tyranny in the passing gale; whose love of liberty, like his, was inflexible, universal, supreme; whose devotion to their common country, like his, never faltered in the worst, and never wearied in the best of times; whose public services ended but with life, carrying the long line of their illumination over sixty years; whose last thoughts exhibited the ruling passion of his heart, enthusiasm in the cause of education; whose last breathing committed his soul to God, and his offspring to his country.

Yes, Adams and Jefferson are gone from us forever—gone, as a sunbeam to revisit its native skies—gone, as this mortal to put on immortality. Of them, of each of them, every American may exclaim—

> "Ne'er to the chambers, where the mighty rest,
> Since their foundation, came a nobler guest,
> Nor e'er was to the bowers of bliss conveyed
> A fairer spirit, or more welcome shade."

We may not mourn over the departure of such men. We should rather hail it as a kind dispensation of Providence, to affect our hearts with new and livelier gratitude. They were not cut off in the blossom of their days, while yet the vigor of manhood flushed their cheeks, and the harvest of glory was ungathered. They fell not as martyrs fall, seeing only in dim perspective the salvation of their country. They lived to enjoy the blessings earned by their labors, and to realize all which their fondest hopes had desired. The infirmities of life stole slowly and silently upon them, leaving still behind a cheerful serenity of mind. In peace, in the bosom of domestic affection, in the hallowed reverence of their countrymen, in the full possession of their faculties, they wore out the last remains of life, without a fear to cloud, with scarcely a sorrow to disturb its close. The joyful day of our jubilee came over them with its refreshing influence. To them, indeed, it was "a great and good day." The morning sun shone with softened lustre on their closing eyes. Its evening beams played lightly on their brows, calm in all the dignity of death. Their spirits escaped from these frail tenements without a struggle or a groan. Their death was gentle as an infant's sleep. It was a long, lingering twilight, melting into the softest shade.

Fortunate men, so to have lived, and so to have died. Fortunate, to have gone hand in hand in the deeds of the revolution. Fortunate, in the generous rivalry of middle life. Fortunate, in deserving and receiving the highest honors of their country. Fortunate in old age to have rekindled their ancient friendship with a holier flame. Fortunate, to have passed through the dark valley of the shadow of death together. Fortunate, to be indissolubly united in the memory and affections of their countrymen. Fortunate, above all, in an immortality of virtuous fame, on which history may with severe simplicity write the dying encomium of Pericles, "No citizens, through their means, ever put on mourning."

I may not dwell on this theme. It has come over my thoughts, and I could not wholly suppress the utterance of them. It was my principal intention to hold them up to my countrymen, not as statesmen and patriots, but as scholars, as lovers of literature, as eminent examples of the excellence of the union of ancient learning with modern philosophy. Their youth was disciplined in classical studies; their active life was instructed by the prescriptive wisdom of antiquity; their old age was cheered by its delightful reminiscences. To them belongs the fine panegyric of Cicero, "Erant in *eis* plurimæ litteræ, nec eæ vulgares, sed interiores quædam, et reconditæ; divina memoria, summa verborum et gravitas et elegantia; atque hæc omnia vitæ decorabat dignitas et integritas."

I will ask your indulgence only for a moment longer. Since our last anniversary, death has been unusually busy in thinning our numbers. I may not look on the right, or the left, without missing some of those who stood by my side in my academic course, in the happy days spent within yonder venerable walls.

"These are counsellors, that feelingly persuade us, what we are," and what we must be. Shaw and Salisbury are no more. The one, whose modest worth and ingenuous virtue adorned a spotless life; the other, whose social kindness and love of letters, made him welcome in every circle. But what shall I say of Haven, with whom died a thousand hopes, not of his friends and family alone, but of his country? Nature had given him a strong and brilliant genius; and it was chastened and invigorated by grave, as well as elegant studies. Whatever belonged to human manners and pursuits, to human interests and feelings, to government, or science, or literature, he endeavored to master with a scholar's diligence and taste. Few men have read so much or so well. Few have united such manly sense with such attractive modesty. His thoughts and his style, his writings and his actions, were governed by a judgment in which energy was combined with candor,

and benevolence with deep, unobtrusive, and fervid piety. His character may be summed up in a single line; for there

> ——————"was given
> To Haven every virtue under heaven."

He had just arrived at the point of his professional career, in which skill and learning begin to reap their proper reward. He was in possession of the principal blessings of life, of fortune, of domestic love, of universal respect. There are those who had fondly hoped, when they should have passed away, he might be found here to pay a humble tribute to their memory. To Providence it has seemed fit to order otherwise, that it might teach us "what shadows we are, and what shadows we pursue." We may not mourn over such a loss, as those who are without hope. That life is not too short, which has accomplished its highest destiny; that spirit may not linger here, which is purified for immortality.